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TAX LAW
OF THE
STATE OF MICHIGAN,

AS ENACTED BY THE LEGISLATURE AT ITS REGULAR
SESSION, A. D. 1869, AND AMENDED A. D. 1871.

Published under the supervision of the Auditor General



BY AUTHORITY.

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LANSING:
W. S. GEORGE & CO., PRINTERS TO THE STATE.
1871.



2012
TAX LAW

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Sections 26, 30, 31, 40, 60, 87, 106, and 149, amended, 1871.

AN ACT

To Provide for a Uniform Assessment of Property, and for the Collection and Return of Taxes thereon.

[LAWS OF 1869, P. 325.]

SECTION 1. *The People of the State of Michigan enact,* That ^{Property} all property, real and personal, within this State, not expressly ^{subject to} taxation. exempted therefrom, shall be subject to taxation in the manner provided by law.

SEC. 2. Real estate shall, for the purpose of taxation, be con- ^{Real estate.} strued to include all lands in the State, and all buildings and fixtures thereon, except in cases otherwise expressly provided by law.

SEC. 3. Personal estate shall, for the purposes of taxation, ^{Personal} be construed to include all goods, chattels, moneys, credits, and ^{estate.} effects, wheresoever they may be; all ships, boats, and vessels belonging to inhabitants of this State, whether at home or abroad, and all capital invested therein; all moneys at interest either within or without this State, due the person to be taxed more than he pays interest for, and all other debts due such persons more than their indebtedness; all public stocks and securities, all stock in turnpikes, railroads, canals, and other corporations (except national banks) out of the State, owned by inhabitants of this State; all personal estate of moneyed corporations whether the owner thereof reside in or out of this State, and the income of any annuity, unless the capital of such annuity be taxed within the State; all shares of stock in any bank organized or that may be organized under any law of

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the State or of the United States; and all improvements made by persons upon lands held by them under the homestead laws of the United States, the fee of which lands is still vested in the United States, and all such improvements upon lands the title to which is still vested in the State of Michigan.

Sec. 4. All property of private corporations, except in the ~~cases~~ where some other provision is made by law, shall be ~~assessed~~ in the name of the corporation, in the township or ward where the same shall be situated; and in collecting the same, all the personal property of such corporation shall be liable to be seized wherever the same may be found in the county, and sold in the same manner as the property of individuals may be sold for taxes.

Exemptions. SEC. 5. The following property shall be exempt from taxation, viz:

First. Household furniture, including stoves put up and kept for use in any dwelling-house, not exceeding in value two hundred dollars;

Second. All spinning and weaving looms and apparatus, not exceeding in value fifty dollars;

Third. All arms and accoutrements required by law to be kept by any person; all wearing apparel of every person or family;

Fourth. The library and school-books of every individual and family, not exceeding in value one hundred and fifty dollars, and all family pictures;

Fifth. To each householder, fifteen sheep with their fleeces, and the yarn and cloth manufactured from the same, two cows, five swine, and provisions and fuel for the comfortable subsistence of such householder and family for six months, and all musical instruments kept for use, not exceeding in value one hundred dollars;

Sixth. All the property of the United States and of this State, except lands bid off for the State at tax sales, except as hereinafter provided;

Seventh. All public or corporate property of the several counties, cities, villages, townships, and school districts in this State, used or intended for corporate purposes ;

Eighth. The personal property of all library, benevolent, charitable, and scientific institutions, incorporated within this State, and such real estate belonging to or leased by such institutions as shall be actually occupied by them, for the purposes for which they were incorporated ;

Ninth. All the houses of public worship, with the pews or slips and furniture therein ; also, the land on which such houses of worship may stand, so far as occupied by such houses of worship, and for no other purposes, and rights of burial and tombs, while in use as repositories of the dead ; and also any parsonage, owned and occupied as such by any religious society incorporated under the laws of this State ;

Tenth. The personal and real estates of persons who, by reason of infirmity, age, or poverty, may, in the opinion of the supervisor, be unable to contribute towards the public charges.

SEC. 6. When a tenant, paying rent for real estate, shall be taxed therefor, he may retain, out of his rent, the taxes paid by him for the same, unless there be an agreement to the contrary. Tenant paying taxes may retain.

SEC. 7. All personal estate, within this State, except in the cases where other provision is made by the third and eighth sections of this act, shall be assessed to the owner in the township where he shall be an inhabitant on the second Monday of May, and all resident real estate, to the person occupying it on that day, unless the same shall be given in by some other person for assessment to him. Estate, where assessed and to whom.

SEC. 8. The excepted cases referred to in the preceding section, and not included in said section three, are the following: Excepted cases.

First. All goods, wares, and merchandise, or stock in trade, including stock employed in the business of the mechanic arts, in any township other than where the owners reside, shall be taxed in the township where the same may be, if the owner hire or occupy a store, mill, shop, or warehouse therein, and

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shall not be taxable where the owner resides, and all shares in national or State banks, owned by persons not residents of this State, shall be taxed in the township or city where the bank is located, and not elsewhere ;

Second. All horses, mules, and neat cattle, sheep, and swine, kept throughout the year, other than where the owner resides, shall be assessed to such owner in the township where they are kept ;

Third. All personal property of non-residents of this State shall be assessed to the owner or to the person having the possession or control thereof, in the township or city where the same may be, or in case the same is in transit, at the place of destination within the State ;

Fourth. All personal property belonging to minors under guardianship shall be assessed to the guardian in the township where he is an inhabitant, and the personal property of every other person under guardianship shall be assessed to the guardian in the township of which the ward is an inhabitant ;

Fifth. All personal property held in trust by any executor, administrator, or trustee, the income of which is to be paid to any married woman or other person, shall be assessed to the person having possession or charge of such property, in the township of which he is an inhabitant, whether such married woman or other person reside within or without this State ;

Sixth. Personal property placed in the hands of any corporation, as an accumulating fund for the future benefit of heirs or other persons, shall be assessed to the persons for whose benefit the same is accumulating, if within this State ; otherwise, to the person so placing it, or his executors or administrators, until a trustee shall be appointed to take charge of such property, or of the income thereof ;

Seventh. The personal estate of persons deceased, which shall be in the hands of executors or administrators, shall be assessed to the executors or administrators in the township

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where the deceased last dwelt, until they shall give notice to the supervisor that the estate has been distributed and paid over to the parties interested;

Eighth. All property held by any religious society as a ministerial fund shall be assessed to the treasurer of such society; and, if such property consists of real estate, it shall be taxed in the township where such property lies; if it consists of personal property, it shall be taxed in the township where such society usually holds its meetings.

SEC. 9. When personal property is mortgaged or pledged, it shall, for the purpose of taxation, be deemed the property of the person who has possession thereof. Personal property when mortgaged.

SEC. 10. The undivided real estate of any deceased person may be assessed to the heirs or devisees of such person, unless occupied by some other person to whom it may be assessed, without designating them by name, until they shall have given notice to the supervisor of the division of such estate, and the names of the several heirs and devisees; and each heir and devisee shall be liable for the whole of such tax, and shall have a right to recover of the other heirs and devisees their respective portions thereof, when paid by him. Undivided real estate of deceased persons.

SEC. 11. Any person holding a part-paid certificate of purchase of university, primary school, State building, swamp, salt-spring, or other State lands, or occupying the same, shall be liable to be assessed therefor, as if he were the actual owner thereof: *Provided, however,* That the same shall be assessed as personal property, and not as real estate, and the tax thereon shall be collected in the manner hereinafter prescribed. Part-paid lands; how assessed.

SEC. 12. Parties in mercantile or other business, whether residing in the same or different townships, may be jointly taxed under the partnership name, in the township where their business is carried on, for all the personal property employed in such business; and, if they have places of business in two or more townships, they shall be taxed in those townships for the proportion of property employed in such townships respectively; Partners; how taxed.

and, in case of being so jointly taxed, each partner shall be liable for the whole tax.

Terms defined.

SEC. 13. The term "money," or "moneys," whenever used in this act, shall be held to mean gold and silver coin, and bank notes, and every deposit, which any person owning the same, or holding in trust, and residing in this State, is entitled to withdraw in money on demand. The term "credits," whenever used in this act, shall be held to mean and include every claim and demand for money, or other valuable thing, and every annuity or sum of money receivable at stated periods, due or to become due, and all claims and demands secured by deed or mortgage, due or to become due. The terms "parcel of real property," and "parcel of land," whenever used in this act, shall each be held to mean any contiguous quantity of land in the possession of, owned by, or recorded as the property of the same claimants, person, or company. Every word importing the singular number only, may extend to and embrace the plural number; and every word importing the plural number, may be applied and limited to the singular number; and every word importing the masculine gender only, may be extended and applied to females as well as males. Whenever the word "oath" is used in this act, it may be held to mean affirmation; and the word "swear," in this act, may be held to mean affirm. The words "town" or "townships," when used in this act, shall be construed to mean ward or city, as the case may be. The term "cash value," whenever used in this act, shall be held to mean the usual selling price at the place where the property to which the term is applied shall be at the time of assessment, being the price which could be obtained therefor at private sale, and not at forced or auction sale.

Statement to supervisor; who to make, and what to contain.

SEC. 14. Every person of full age and sound mind, and every firm, body politic, or corporate, shall, when called upon as hereinafter provided, forthwith make a full and true statement, in writing, to the supervisor of the township or ward in which he resides, in which shall be distinctly and truly set forth a correct

description of all the real estate and personal property not by this act exempt from taxation, and not by the laws of this State subject to a specific tax, of which he or she is the owner or the holder, as guardian, parent, husband, or trustee, executor, administrator, receiver, accounting officer, partner, agent, or factor ; and also all moneys and credits owned or held as aforesaid ; and the cashier of any State or national bank, in said township or ward, when called upon as aforesaid, shall also truly and fully set forth the names of all non-residents of his State, owning shares of stock in such bank, and the number and amount of such shares owned by each non-resident respectively, as the same shall appear upon the books of said bank, and in case of neglect or refusal so to do, said cashier shall be deemed guilty of a misdemeanor.

SEC. 15. Every person required by this act to make or deliver such statement shall set forth an account of the property held ^{Itemized} ^{account of} ^{property.} or owned by him or them, as follows :

First. An accurate description of each parcel of land, with the number of acres, and the number of acres improved, and the number and kinds of buildings thereon ;

Second. The number of neat cattle six months old ;

Third. The number of horses over six months old ;

Fourth. The number of sheep over six months old ;

Fifth. The number of hogs over six months old ;

Sixth. Every wagon and carriage ;

Seventh. Every gold or silver watch ;

Eighth. The number of bushels of grain and the quantity of all other farm produce in the possession of the producer ;

Ninth. All merchandise not included in the eighth subdivision of this section ;

Tenth. Every musical instrument of the value of one hundred dollars and upwards ;

Eleventh. All moneys and all credits ;

Twelfth. All other personal property held or owned by him, including the shares in any State or national bank in the State ;

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Thirteenth. The amount of moneys upon which he pays interest, providing he desires to have the same deducted from his moneys and credits ;

Fourteenth. The amount of all other *bona fide* indebtedness, provided he desires to have the same deducted from his moneys and credits.

Supervisor
may require
statement to
be sub-
scribed, etc.

SEC. 16. Such statement the supervisor may, in his discretion, require to be subscribed by the person making the same ; and it shall further mention who is the owner of the property so described, and whether the same is held by him, the maker of such statement, individually, or in his own right, or whether held for any other person ; and if held for any other person, then state for whom, in what capacity, or on what account so held, giving the name of the person for whom he holds.

Corporate
property
paying spe-
cific tax not
to be inclu-
ded in state-
ment.

SEC. 17. No person shall be required to include in such statement any share or portion of the capital stock of any company or corporation, which company or corporation is by law exempt from taxation, or by law required to pay a specific tax in lieu of all other taxes on such share or portion of capital stock, or whose corporate property is subject to assessment under the provision of section four of this act.

Supervisors
to furnish
blank forms.

SEC. 18. It shall be the duty of each supervisor, on or before the second Monday in May, to call upon each taxable person in his township, at his residence, boarding-place, or usual place of business, at which time he shall furnish each taxable person a blank form for the statements required by the fifteenth section of this act ; and thereupon said taxable person shall forthwith make and deliver to said supervisor a full and true statement of the taxable property in his possession, according to the provisions of this act ; and immediately thereafter the said supervisor shall proceed to examine said property, and estimate and set down the true value thereof, the same being the price which could be obtained therefor at private sale, and not at forced or auction sale, and being the true cash value as defined in section thirteen of this act, deducting from the moneys at interest and

Supervisor
to estimate
property at
its cash
value.

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other credits of such person, the amount of money upon which he or she pays interest, together with his other *bona fide* indebtedness, as set forth in said statement.

SEC. 19. In every case where any person shall neglect or refuse to make out and deliver a statement of his real and personal property, moneys, and credits, or to exhibit the same to the supervisor, as required by this act, it shall be the duty of said supervisor, and he is hereby authorized, to examine on oath the person so refusing, and any other person or persons who he may have good reason to believe and does believe has knowledge of the amount or value of any property, moneys, or credits owned or held by such person so refusing; and said supervisor shall assess any property, money, or credits, owned or held by such person so refusing, at its true cash value, as the same is hereinbefore defined: *Provided*, That if any person shall neglect or refuse to make such statement, or in case any person owning any taxable property in this State, or any money loaned in this State, shall be absent from the township or cannot be found therein by the supervisor of such township, during the time the assessment roll is required by law to be made, leaving no agent known to such supervisor to make the required statement, such supervisor is hereby authorized to set down and assess to such person any amount of personal property he may deem just and proper, subject to reduction on review, upon oath of the party in interest, his agent or attorney.

Statement,
when not
made out;
how to
proceed.

Proviso.

SEC. 20. On the third Monday of May, it shall be the duty of the supervisor of each of the several townships to be present at his office from eight o'clock in the forenoon until twelve, noon, and from one o'clock in the afternoon until five o'clock in the afternoon, for the purpose of reviewing his assessment, and so on the two next following days; and, on the request of any person, his agent or attorney, considering himself aggrieved, on sufficient cause being shown to the satisfaction of the supervisor, he shall alter the assessment as to

Review of
assessment
roll; when
to be made.

Assessment
valuation
may be
returned.

the valuation thereof, and he shall also, upon sufficient cause being shown by any credible person on behalf of any other person whose property is assessed, alter the assessment in such manner as shall to him appear just and equal; and to this end he may in either case examine on oath the person making the application, or any other person present, touching the matter, which oath the supervisor is hereby authorized to administer.

Assessment
roll, con-
tains of.

SEC. 21. The assessment roll shall contain the names of the resident persons liable to be taxed; a full description of the real estate of such persons; the number of acres in each tract or parcel, as near as the same can be ascertained; the estimated value of each tract or parcel, and the aggregate valuation of the personal estate of each person liable to be taxed, as appears from the statements in the possession of the supervisor.

Auditor
General to
transmit
blanks to
county
treasurers.

SEC. 22. For the purposes mentioned in the preceding sections of this act, the Auditor General shall, before the first Monday in March in each year, prepare and transmit suitable blanks to the several county treasurers, who shall, before the first Monday in April, supply all the supervisors in their several counties with the same. The Auditor General is authorized and instructed to furnish, at the expense of the State, to each supervisor and assessor in the several townships and cities in this State, a copy of this law, at the earliest day practicable.

To furnish
copies of law

Description
of real estate.

SEC. 23. The description of real estate may be as follows:

First. If the land to be assessed be an entire section, it may be described by the number of the section, township, and range;

Second. If the tract be a subdivision of a section authorized by the United States for the sale of the public lands, it may be described by a designation of such subdivision, with the number of the section, township, and range;

Third. If the tract be less or other than such subdivision, it may be described by a designation of number of the lot or other lands by which it is bounded, or in some way by which it may be known;

Fourth. In case of lands surveyed or laid out as a city or village, and a plat thereof recorded in the register's office of the county, if the tract to be assessed be a whole lot or block, it shall be described by a designation of the number thereof; if it be a part of a lot or block, it may be described by its boundaries, or some other way by which it may be known, and it shall not be necessary to insert the quantity of such land in the assessment roll. When any lands have been or hereafter shall be laid out as a city or village, or as an addition of any city or village, and the same has not been duly recorded in the register's office of the county, and any one or more of the lots have been or may be sold by the numbers thereof, according to the plat of said city or village, or addition thereto, such land, laid out as aforesaid, may, in the discretion of the supervisor, be assessed in whole or in part, according to the subdivision as represented on the plat of said city or village, or in some other way by which it may be known; and if such subdivision or parcel be a whole lot or block, it shall be described by a designation of the number thereof; and if it be part of a lot or block, such part shall be defined, or it shall be described by its boundaries, or in some other way by which it may be known; and it shall not be necessary to insert the quantity or contents of such land in the assessment roll;

Fifth. If the land to be assessed be a tract of which the subdivision is not known to the supervisor, it shall be entered upon the roll by the boundaries thereof, or in some other way by which it may be known;

Sixth. Undivided shares or interests in lands shall be assessed to the owners thereof, if such ownership is known to the supervisor, and no tract in the same section, known to the supervisor to have been originally entered as one parcel, shall be subdivided in assessing, unless the fact of a subdivision having been made be known to the supervisor;

Seventh. It shall be sufficient to describe lands to be assessed

or sold for taxes in the manner heretofore in use, by initials, letters, abbreviations, and figures.

Unoccupied
lands; how
assessed.

SEC. 24. All lands unoccupied and not claimed to be owned by any resident of the township where they are situated, and not exempt from taxation, may be assessed as non-resident lands, and it shall be the duty of the supervisor to enter the same on a part of the roll separate from that upon which the estates of residents are entered, and when real estate is occupied, it may be assessed to the occupant or supposed owner or person exercising control over the same. When a person is assessed as a trustee, guardian, executor, or administrator, a designation of his representative character may be added to his name, and such assessment shall be entered on a separate line from his individual assessment.

Property
held in trust.

Roll, when
completed,
to be certi-
fied.

SEC. 25. When the supervisor has reviewed and completed the assessment roll, it shall be his duty to attach thereto, signed by him, a certificate, which may be in the following form: "I do hereby certify that I have set down in the above assessment roll all the real estate in the township of _____ liable to be taxed, according to my best information, and that I have estimated the same at what I believe to be the true cash value thereof, and not at the price it would sell for at a forced or auction sale; that the said assessment roll contains a true statement of the aggregate valuation of the taxable personal estate of each and every person named in said roll, and that I have estimated the same at the true cash value, as aforesaid, according to my best information and belief."

Statement of
money to be
raised; state-
ment of, to
be delivered
to supervi-
sor by town-
ship clerk.

* SEC. 26. It shall be the duty of the township clerk of each township, or of the proper officer of any ward or city, on or before the first day of October of each year, to make and deliver to the supervisor of his township or ward, a certified copy of all statements on file, or of record, in his office, of moneys proposed to be raised therein by taxation, for all purposes, together with a statement of the aggregate amount thereof,

* As amended. 1871.

and such statements, duly certified by the township clerk, or the proper officer of the ward or city, shall by such supervisor be delivered to the clerk of the board of supervisors of the county within which such township or city is situated, on or before the second Monday of said month, and such statements shall, by said county clerk, be laid before the board at its annual meeting, and filed in his office.

Supervisor to deliver same to clerk of board.

SEC. 27. The board of supervisors in each county shall, at their session in October in each year, examine the assessment roll of the several townships, and ascertain whether the relative valuation of the real estate in the respective townships has been equally and uniformly estimated. If, on such examination, they shall deem such valuation to be relatively unequal, they shall equalize the same by adding to or deducting from the valuation of the taxable property in the township or townships such an amount as in their judgment will produce relatively an equal and uniform valuation of the real estate in the county, and the amount added to or deducted from the valuation in each township shall be entered upon the records. They shall also cause to be entered upon their records the aggregate valuation of the taxable real and personal property of each township, ward, or city in their county, as determined by them.

When board of supervisors to examine assessment rolls.

Power of board to equalize valuation.

Record of determination.

SEC. 28. The board of supervisors shall also make such alterations in the description of any lands upon such rolls as may be necessary to render such description conformable to the requirements of this act.

Alteration of description.

SEC. 29. After the assessment shall have been equalized, and the descriptions corrected, as provided in the two last preceding sections, it shall be the duty of the chairman of the board to make and sign a certificate, upon or appended to the roll of each township, which certificate may be in the following form, to wit:

Corrected roll to be certified by chairman of board.

"I do hereby certify that the board of supervisors have equalized and corrected the within roll, by adding to or deducting from the valuation of the real estate made by the

Form of certificate.

supervisor thereon, or without adding to or deducting from the valuation of the real estate made by the supervisor, as the case may be, and have determined the aggregate value of the taxable property in the township of _____ to be _____ dollars and _____ cents, for the year eighteen hundred _____."

Filing of roll Which assessment roll, certified as aforesaid, shall be delivered to the supervisor of the proper township, whose duty it shall be to file and keep the same in his office.

Auditor General to apportion State tax, etc

* SEC. 30. The Auditor General shall apportion the State tax among the several counties, in proportion to the valuation of taxable property therein, as determined by the last preceding State Board of Equalization, and shall, before the October session of the boards of supervisors, make out and transmit to the clerks of the several boards the amount of such tax so apportioned by him to the county, and shall charge the several amounts of such apportionments to the counties respectively. The Auditor General shall also include in the amount of the State tax so apportioned to any county, the amount of indebtedness of such county to the State, as shall be shown by the statement of the account between the county and the State, made by the Auditor General on the first day of July next previous to such apportionment, which amount shall be apportioned by the board of supervisors of the proper county at the same time as are the State taxes contained in such apportionment of the Auditor General, and shall be levied in the same manner as, and become a portion of, the county taxes of the same year: *Provided*, That the amount of county indebtedness included in such apportionment shall not be included in the amount of State tax charged to the counties, as provided in the first clause of this section.

When board of supervisors to apportion taxes, etc.

* SEC. 31. The board of supervisors shall, at said annual session, direct such part of each of the several amounts to be raised by any township, ward, or city, as appears by the certified statements provided for in section twenty-six to be

* As amended, 1871.

authorized by law, to be spread upon the assessment roll of the proper township, ward, or city; said board shall also ascertain and determine the amount of money to be raised by tax for county purposes, and apportion such amount, and also the amount of State tax required to be raised, among the several townships in the county, in proportion to the valuation of the taxable property therein for one year, as equalized by the board, which determination and apportionment shall be entered at large on their records; and there shall also be entered in full upon the records of the proceedings of such board, its action upon each of the several amounts certified to such board, as proposed to be raised by taxation in the townships, wards, or cities therein, and the several amounts ordered, as hereinbefore provided, to be raised in the several townships, wards, or cities therein, which amounts shall be apportioned respectively upon the basis of the values as equalized by the board.

SEC. 32. The clerk of the board of supervisors shall, immediately after such apportionment, make out two certificates of the amounts apportioned to be assessed upon the property of each township, for State, county, township, fractional school district, and other purposes, one of which he shall deliver to the county treasurer, and the other to the supervisor of the proper township or ward; and the county treasurer shall charge the amount of the State and county taxes specified in such certificate to the proper township, ward, or city.

SEC. 33. The supervisor of each township shall proceed to assess taxes for the amount specified in such certificate, according and in proportion to the individual and particular estimate and valuation specified in the assessment roll of the township for the year. For the purpose of avoiding fractions in excess, in said tax, the supervisor may add to the several amounts to be raised not more than one per cent; said excess, more or less, shall be paid into and belong to the contingent fund of the township in which it was assessed.

When supervisor to notify town treasurer of amount of taxes, etc.

Bond of treasurer; to whom delivered.

Receipt therefor delivered to supervisor.

When supervisor to deliver corrected roll to town treasurer.

Warrant for collection; what to specify.

Town clerk to charge amount of taxes to treasurer.

SEC. 34. The supervisor of each township, on or before the fifteenth day of November in each year, shall notify the township treasurer of the amount of State and county tax apportioned to his township, and such treasurer, on or before the twenty-fifth day of November, shall give to the county treasurer and his successors in office, a bond in double the amount of State and county taxes, with good and sufficient sureties, to be approved by the supervisor of the township, or the county treasurer, conditioned that he shall duly and faithfully perform the duties of his office, and shall deliver the same to the county treasurer.

SEC. 35. The county treasurer shall file and safely keep such bond in his office, and on receipt thereof he shall give to the township treasurer a receipt, stating that he has received the bond required by the preceding section, which receipt the township treasurer shall deliver to the supervisor on or before the first day of December.

SEC. 36. The supervisor, after the delivery of such receipt, and on or before the first Monday of December, shall deliver to the township treasurer a copy of the corrected assessment roll of his township, with the taxes for the year annexed to each valuation, and carried out in the last column thereof; the school, library, two-mill, and school-house taxes in one column, the highway taxes in another, the township taxes in another, the county taxes in another, and the State taxes in another column; and if other taxes are at any time required by law, they shall be placed each in another column; and the warrant for their collection shall specify particularly the several amounts and purposes for which said taxes are to be paid into the township and county treasuries respectively. Before the supervisor shall deliver such assessment roll and tax list to the township treasurer, he shall carefully foot up the several taxes therein levied, and shall give to the township clerk of his township a statement thereof, and such township clerk shall immediately charge the amount of such taxes to the township treasurer.

TAX LAW.

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The supervisor and assessor shall be allowed, for their services in assessing property and copying the tax rolls, and for extending the taxes thereon, at the rate of two dollars for each day actually and necessarily spent in perfecting the same, which shall be verified, audited, and paid in the townships in the same manner provided by law for the payment of other township officers, and they shall receive payment from no other source: *Provided*, That the city of Detroit shall be exempted from the provisions of the last clause of this section, and the common council shall have power to fix and determine the compensation of the city assessor thereof.

Per diem of supervisor; how paid.

Proviso.

SEC. 37. To such assessment roll and tax list a warrant under the hand of the supervisor shall be annexed, commanding such treasurer to collect from the several persons named in said roll the several sums mentioned in the last column of such roll opposite their respective names, and to retain in his hands the amount receivable by law into the township treasury for the purposes therein specified, and to account for and pay over to the county treasurer the amounts therein specified for State and county purposes, on or before the first day of February then next; and the said warrant shall authorize the treasurer, in case any person named in the assessment roll shall neglect or refuse to pay his tax, to levy the same by distress and sale of the goods and chattels of such persons.

Warrant of supervisor commanding treasurer to collect, etc

SEC. 38. The board of supervisors of any county shall have power to authorize the making out a new tax roll; to extend and determine by resolution the time when each collector or township treasurer in their county shall make his return to the county treasurer, but such time shall in no case exceed two months from the time fixed by the last previous section; and where an extension is had, each township treasurer or other collecting officer shall be authorized to levy and collect all taxes, as if such extension had not been granted. But no collector or township treasurer shall receive the benefit of such extension until he shall have paid over to the county treasurer,

Power of board of supervisors to make new tax-roll, and extend time.

When collector not to receive benefit of extension.

Interest on
taxes ex-
tended, etc.

Collector to
call for taxes
remaining
unpaid, etc.

Proviso.

When time
is extended
county clerk
to certify
same for
transmittal
to Auditor
General.

When taxes,
etc., to be a
lien on the
real estate
assessed.

or other officer authorized to receive the same, all moneys collected by him up to the first day of February, which may be due; and in all cases interest shall be charged on all taxes extended from the first day of February, at the rate and in the manner provided in section seventy of this act; and for the purpose of collecting the taxes remaining unpaid, he shall call at least once upon the person taxed, if a resident, or at the place of his usual residence in the township, and shall demand payment of the taxes charged to him on such list; and in case of any tax assessed upon the shares of capital stock of any bank in such township, owned by persons not residents of the State, he shall call upon the cashier of such bank and demand payment thereof; and thereupon it shall be the duty of such cashier to pay the same, and charge the amount so paid against the shares of stock so taxed: *Provided*, That the township boards of any township, or the common council of any city shall have power to extend the time for the collection of taxes one month, whenever the boards of supervisors have neglected to so extend the time; and when the township board of a township, or the common council of a city, shall have extended the time as aforesaid, such extension shall be duly certified by the township clerk of the township, or the proper certifying officer of the city, to the county clerk of the county.

SEC. 39. Whenever the time shall be extended within which any collector or township treasurer shall make his return, as contemplated by the last preceding section, the county clerk of such county shall certify to such action, and attach such certificate to the transcript of the county treasurer, to be forwarded to the Auditor General, as required by section sixty-seven of this act.

* SEC. 40. The taxes assessed upon any real estate of any resident or non-resident, and all legal charges made thereon, shall be a charge against the person owning the same on the second Monday of May, and shall be a lien on said real estate from

the first Monday in December of the year in which such real estate was assessed, but it shall be lawful for the township treasurer to collect such taxes by distress and sale of the goods and chattels of any person who shall purchase such real estate after the second Monday in May, and occupy the same on the first Monday in December.

SEC. 41. Every township treasurer, upon receiving the tax list and warrant, shall, for the purpose of collecting the taxes therein mentioned, be and remain at his office or place of business on Friday of each and every week after receiving such list, until and including the last Friday in the month of December; and upon all taxes paid or tendered to him on such days, or at any other time before the first day of January next thereafter, he shall add one per cent for collection fees; and upon all taxes collected by him after the said first day of January, he shall add four per cent for collection fees: *Provided*, That the fees so added and collected shall be in full for his services as township treasurer, except as hereinafter provided: *And provided further*, That nothing in this act shall be construed as preventing the township treasurer, at any time when he shall deem it necessary, from proceeding in the manner hereinafter provided, to collect of any person the tax imposed upon him.

When township treasurer to remain in office to receive taxes.

Fees added.

Proviso.

Idm.

SEC. 42. In case any person shall refuse or neglect to pay the tax imposed on personal or real estate belonging to him, the treasurer shall levy the same by distress and sale of the goods and chattels of said person, wherever the same may be found within his township.

Sale of estate to pay tax.

SEC. 43. The treasurer shall give public notice of the time and place of sale, and of the property to be sold, at least five days previous to the sale, by advertisement, to be posted up in three public places in the township where such sale shall be made, and the sale shall be made by public auction.

Notice of.

SEC. 44. If the property so distrained cannot be sold for want of bidders, the treasurer shall return a statement of the fact, and if the tax be assessed on real estate, such real estate

Return by treasurer when sale is not made.

shall be returned in the same manner as if the same were non-resident lands.

Surplus
from sale;
how dis-
posed of.

SEC. 45. If the property distrained shall be sold for more than the amount of the tax and collection fees, the surplus shall be returned to the person in whose possession said property was when the distress was made.

In case of
removal, tax
may be col-
lected in any
part of
county.

SEC. 46. In case any person upon whom any tax may be assessed in any township shall have removed out of any township after the assessment and before such tax ought by law to be collected, it shall be lawful for the treasurer of such township to levy and collect such tax of the goods and chattels of the person so assessed, in any township within the county.

Proceedings
when tax on
personal
property
cannot be
collected.

SEC. 47. Whenever any township treasurer shall not be able to collect any tax on personal property on account of the absence of the person so taxed, or for any other cause, the county treasurer, if required, shall issue a new warrant to the treasurer of the township for such tax, and it shall be the duty of the township treasurer to renew his official bond; and thereupon the said warrant shall be and remain in force, for the purposes of such collection, until the next annual meeting of the board of supervisors, unless the tax is sooner collected; and the said township treasurer shall charge fifteen per cent interest on all such taxes, from the first day of February until the day of collection: *Provided*, Said bond shall not be renewed unless the tax uncollected shall exceed five dollars.

Proviso.

When town
treasurer
may sue for
tax.

SEC. 48. Whenever any tax which shall have been or may hereafter be assessed on personal property in this State shall be returned by any township treasurer for non-payment, under the provisions of this act, or when any tax shall have been assessed upon the shares of the stock of any bank owned by non-residents of this State, and the same shall not be paid by the cashier of such bank, on demand, as hereinbefore provided, it shall be lawful for such treasurer to sue, in the name of such township, the person or persons against whom such tax was assessed, or the bank issuing such shares of stock, as the case

may be, before any court of competent jurisdiction, and to have, use, and take all lawful ways and means provided by law for the collection of debts, to enforce the payment of any such tax.

SEC. 49. Executions issued upon judgments rendered for any such tax may be levied upon any property liable to be seized and sold under warrants issued for the collection of taxes by township supervisors, and collected in the same manner, in all other respects, as provided by law for the collection of judgments. Executions upon judgments; how collected, etc

SEC. 50. The production of any tax roll on the trial of any action brought for the recovery of a tax therein assessed may, upon proof that it is either the original tax roll and warrant or a duly certified copy thereof, of the township named as the plaintiff in such action, be read and used in evidence; and, if it shall appear from said assessment roll that there is a tax therein assessed against the defendant in such suit, it shall be *prima facie* evidence of the legality and regularity of the assessment of the same; and the court before whom the cause may be pending shall proceed to render judgment against the defendant, unless he shall make it appear that he has paid such tax, and no stay of execution shall be allowed on any such judgment. Original tax-roll, etc.; copy thereof may be used as evidence, etc.

SEC. 51. Such township treasurer shall receive the tax, or any one of the several taxes, on any lot or parcel of land, or part thereof, or on any undivided share or other interest therein, which the tax-payer will clearly define; and if the remaining tax on such lot or parcel of land shall not be paid, the township treasurer shall enter a specification thereof in his return to the county treasurer; but if the part on which the tax is so paid shall be an undivided share, the person paying the same shall state to the treasurer the name of the owner of such share, that it may be excepted in case of the sale for the tax on the remainder, for which purpose the treas- Treasurer shall receive tax on part of lot, etc., or on undivided share, etc.

urer shall enter the name of such owner in his account of arrears of taxes.

When money shall be paid to county treasurer.

SEC. 52. The township treasurer shall retain in his hands the amount specified in his warrant to be paid into the township treasury, for the purposes therein specified, and shall, within one week after the time specified in his warrant for paying the money directed to be paid to the county treasurer, pay to such county treasurer the sum required in his warrant, either in delinquent taxes or in funds then receivable by law.

Return of taxes not collected.

SEC. 53. If any of the taxes mentioned in the tax list annexed to his warrant shall remain unpaid, and the township treasurer shall be unable to collect the same from the owner or occupant of the premises assessed, he shall make out a statement of the taxes so remaining unpaid and due, with a full and perfect description of such premises from his tax roll, and submit the same to the county treasurer.

Return to be compared with tax-roll, etc.

SEC. 54. The county treasurer shall immediately compare such statement with the tax roll in the hands of such township treasurer, and if he finds it to be a true transcript from the same, he shall add to it a certificate showing that he has examined and compared such statement with the tax roll in the hands of such township treasurer and found it correct, and shall file such statement so certified in his office: *Provided*, That the county treasurer shall, at the time of making such comparison and at no other time, reject and charge back to the proper township any lands which shall have been twice assessed, or any parcel which shall be so erroneously or defectively described that it cannot be ascertained.

Proviso.

County treasurer to reject.

When town treasurer to be credited with uncollected tax.

SEC. 55. Upon making an affidavit to be annexed to such statement before the county treasurer or his deputy duly appointed, or before any officer authorized to administer oaths, that the sums mentioned in such statements remain unpaid, and that he has not, upon diligent inquiry, been able to discover any goods or chattels belonging to the person charged with or liable to pay such sums, whereupon he could levy the

same, the township treasurer shall be credited by the county treasurer with the amount thereof, and for making the return aforesaid he shall be entitled to receive one dollar and fifty cents, and six cents per mile traveling fee one way, to be allowed and paid to him by the county treasurer, together with two per cent on all taxes returned as delinquent; but no such treasurer shall be allowed more than ten dollars, including said two per cent, for making his return. The township treasurer shall also make out, under oath, a statement of all moneys collected by him on account of taxes, and deliver such statement to the county treasurer, who shall file and preserve the same in his office.

Fee and mileage for making return.

Sworn statement of all moneys collected to be filed with county treasurer.

SEC. 56. The county treasurer shall give to the township treasurer a receipt, stating the amount of taxes returned by such township treasurer unpaid, and for which the township shall receive a credit on the books of the county treasurer, and shall also give such township treasurer a statement of all taxes rejected by such county treasurer out of such list, which receipt and statement shall be the vouchers of such township treasurer for the amounts therein specified.

Receipt by county to township treasurer.

SEC. 57. Upon the settlement of the amount of taxes directed to be collected by the township treasurer and paid to the county treasurer, such county treasurer shall endorse the bond of the township treasurer as paid up, which endorsement shall operate as a full discharge of the treasurer and his sureties from the obligation thereof, unless it shall afterwards appear that the return of such treasurer is false, in which case such bond shall continue in force, and such treasurer and his sureties shall be liable thereon for all damages occasioned by such false returns; and the township treasurer shall immediately deposit his tax roll and warrant with the county treasurer, who shall file and preserve the same in his office, and which said roll, or a duly certified copy thereof, shall, for all purposes, in all courts, suits, and proceedings, be taken, held, and used as evidence, in the same manner and with like effect as the original roll.

When county treasurer to endorse as paid, the bond of township treasurer.

When bond still to continue in force

Tax-roll and warrant deposited with county treasurer.

When town board may appoint a treasurer, etc.

SEC. 58. In case the treasurer of any township shall refuse to serve, or shall die, resign, or remove out of the township before he shall have entered upon or completed the duties of his office, or be disabled from completing the same from any cause, the township board shall forthwith appoint a treasurer for the remainder of the year, who shall give like security, and be subject to like duties and penalties, and have the same powers and compensation, as the treasurer in whose place he was appointed; and the township clerk shall immediately give notice of such appointment to the county treasurer, but such appointment shall not exonerate the former treasurer or his sureties from any liability incurred by him or them.

Notice of appointment to be given.

Money retained by town treasurer; in what order to be paid out.

SEC. 59. In case the township treasurer shall not collect the full amount of taxes required by his warrant to be paid into the township treasury, such portion thereof as he shall collect shall be retained by him, and paid out for the following purposes and in the following order, viz:

First. The amount raised for the general township purposes, to be paid on the order of the township board;

Second. The amount raised for school purposes, to be paid on the order of the school district officers;

Third. The amount of the highway taxes, to be paid on the order of the commissioners of highways.

Fees of town treasurer in case of sale.

*SEC. 60. In case of a distress and sale of goods and chattels for the payment of any tax, the township treasurer or other collecting officer may also collect on such sale one dollar and twenty-five cents over and above the tax, as his fees for making such sale, which fees and percentage hereinbefore provided shall be in full for his services in collecting such taxes; and in case payment of such tax shall be made after the distress and before the sale, it shall be lawful for such township treasurer or collecting officer to require the payment of one dollar and twenty-five cents as his fee for making such

* As amended, 1871.

distress, and to enforce payment of the same, if need be, by making the sale notwithstanding the tax shall have been paid.

SEC. 61. In case the township treasurer shall neglect or refuse to file his bond with the county treasurer, in the manner and within the time prescribed by law, and the township board shall fail to appoint a treasurer who shall give such bond and deliver a receipt for the same to the supervisor by the tenth day of November, the supervisor shall deliver the tax roll and warrant to the sheriff of the county, to be executed by himself or his deputy, who shall execute and deliver the bonds required of the township treasurers, and make like collections and returns, and shall be entitled to the same compensation allowed to the township treasurers, on all taxes so handed over to him for collection; and, for the purpose of collecting the same, shall be vested with all the powers conferred upon the township treasurer.

When supervisor to deliver up roll and warrant to sheriff.

Powers and duties of sheriff thereon.

SEC. 62. The township treasurer or other collecting officer, on receipt of any tax, shall give a receipt for the same, and shall note on his tax roll the payment thereof, and if any such treasurer or other collecting officer shall willfully return to the county treasurer as unpaid any taxes which have been paid to him, he shall be deemed guilty of a misdemeanor, and shall, on conviction thereof, be punished by imprisonment in the county jail not exceeding one year, or by fine not exceeding five hundred dollars, or both, in the discretion of the court, and be liable, together with the surety in his bond, to any person injured by such false return, to the full amount of any loss sustained thereby.

Receipt by collecting officer on payment of tax.

Punishment for willfully returning as unpaid, taxes which have been paid.

SEC. 63. If any township treasurer, ward collector, or other collecting officer shall neglect or refuse to pay to the county treasurer the sums required by his warrant, or to account for the same as unpaid, as required by law, the county treasurer shall, within ten days after the time when such payment ought to have been made, issue a warrant under his hand, directed to the sheriff of the county, commanding him to levy such

When county treasurer to issue warrant levying upon goods, etc., of township treasurer and sureties.

sum as shall remain unpaid and unaccounted for, together with his fees for collecting the same, of the goods and chattels, lands and tenements of such township treasurer, ward collector, or other collecting officer, and their sureties, and to pay the said sums to such county treasurer and return such warrant within forty days from the date thereof.

Duty of sheriff to execute and make return of such warrant.

SEC. 64. The county treasurer shall forthwith deliver such warrant to the sheriff of his county, who shall immediately cause the same to be executed, and shall make return thereof to the county treasurer within the time specified for the return thereof, and pay to such treasurer the amount collected on such warrant, and such sheriff shall be entitled to collect and receive the same fees as are allowed by law to sheriffs on executions.

Proceedings against sheriff for neglect or false return.

SEC. 65. If any sheriff shall neglect to return any such warrant, or to pay the money collected thereon, within the time limited for the return of such warrant, or shall make a false return thereto, the county treasurer shall proceed by attachment, in any court of competent jurisdiction, against such sheriff, to collect the whole sum directed to be levied by such warrant, in the same manner and with like effect as for neglecting to return an execution in a civil suit, and the proceedings thereon shall be the same in all respects.

Ibid.

SEC. 66. In case the county treasurer shall fail to collect such moneys by attachment, he shall forthwith cause a prosecution to be had against the sheriff and his sureties for the sum due on such warrant, which sum, when collected, shall be paid to the county treasurer.

County treasurer to enter return of lands delinquent for taxes, and make transcript, etc.

SEC. 67. When any county treasurer shall receive from a township treasurer a statement of unpaid taxes on the lands of residents or non-residents, verified according to law, such county treasurer shall enter the same at length on the books in his office provided for the purpose, and he shall make a correct transcript thereof of all the descriptions of land returned as delinquent for unpaid taxes, except such as may have been

rejected by said county treasurer, which transcript shall be compared by the county clerk with the statement of the township treasurer, as certified by the county treasurer, and, if he finds it to be a true transcript thereof, he shall add to it a certificate that he has examined and compared the same with the certified statement of the township treasurer, and found it correct.

County clerk to compare same.

SEC. 68. Such transcript, so made out, compared, and certified, shall be forwarded by the county treasurer to the Auditor General, by the first day of March next after the return of such statement; but such transcript shall be receivable at any time during said month of March, and, when received by the Auditor General, the amount thereof shall be placed to the credit of the proper county, on the books in his office.

Transcript to be forwarded to Auditor General.
When receivable and how credited

SEC. 69. If the taxes on any real estate, assessed to a resident or owner thereof, shall be returned unpaid, the same proceedings shall be had thereon, in all respects, as in cases of lands assessed as non-resident, and with like effect.

Resident real estate; proceedings on return of.

SEC. 70. Any person may pay the taxes or any one of the several taxes on any parcel of lands returned as aforesaid, or on any undivided share thereof, with interest calculated thereon from the first day of February next after the same were assessed at the rate of fifteen per cent per annum, and the office charges, and four per cent as a collection fee, to the treasurer of the county in which the lands are situated, at any time before they are sold for taxes, or to the State Treasurer on the certificate of the Auditor General, at any time before the twentieth day of September next preceding the time appointed for such sale: *Provided*, That on all taxes remaining unpaid on the first day of June next after the same were assessed, interest shall be computed at the rate of thirty per cent per annum from said first day of February.

Payment of taxes after return.
Provide.

SEC. 71. The county treasurer and Auditor General shall add for office charges upon each certificate containing one description, thirty cents; and for each additional description, the

Office charges; how disposed of.

same certificate, five cents; and the amount received by the county treasurers for charges shall go into the county treasuries, of which they shall keep an accurate account; and the amount received at the State Treasurer's office shall go into the State treasury, to the credit of the general fund.

Duplicate receipts by county treasurer.

SEC. 72. The county treasurers shall issue duplicate receipts for all taxes received by them, which shall not operate as a discharge of the taxes until countersigned by the county clerk, and one of said duplicates shall be left with such clerk; but no additional charge shall be made for issuing duplicate receipts.

Entry to be made of same by county clerk and forwarded to Auditor General.

SEC. 73. The duplicates of such receipts shall be filed by the county clerk, who shall make an entry of the amount for which every such receipt was given, with the name of the person paying such tax, in a book to be provided by him for that purpose, at the expense of the county, and shall, on the first Monday of each month, forward all the receipts on file in his office to the Auditor General in such manner as he may direct.

County treasurers' return to Auditor and payments to State Treasurer.

SEC. 74. Every county treasurer who shall have received into the treasury of his county sufficient to make up the amount of taxes assessed for township and county purposes, shall make returns, at least once in three months, to the Auditor General, and shall pay to the State Treasurer, at such times and in such manner as he shall direct, the amount received by him for delinquent taxes, payable to such State Treasurer.

When taxes to be refunded with interest.

SEC. 75. Whenever the taxes on any land returned to the office of the Auditor General for non-payment shall have been paid by the owner of such lands, his agent or attorney, in cases where such land was not subject to taxation at the date of the assessment of such taxes, the Auditor General, on discovering the same, shall, on application of the person entitled thereto, refund the taxes so paid, with interest at seven per cent: *Provided*, Such application shall be made within four years from the time this act takes effect, and, in case of taxes hereafter paid, within four years after such payment.

Proviso.

SEC. 76. Immediately after the returns of the several township treasurers to the county treasurers, in all cases where the amount collected shall exceed the amount raised for county and township purposes, the county treasurer shall forthwith pay into the State treasury the excess collected, as aforesaid, for which amount the said counties shall be credited by the Auditor General, on account of the State tax, for the proper year.

When excess
to be paid
into State
treasury.

Of the Sale of Lands for Taxes, and the Conveyance and Redemption thereof.

SEC. 77. All lands returned to the Auditor General, as provided by law, upon which the taxes, interest, and charges shall not be paid, or be charged back to the proper county, shall be subject to sale and redemption as hereinafter provided, and shall be sold in the same county from which they were returned, or in which the lands were situated at the time such taxes were assessed.

Providing
for sale and
redemption
of lands.

SEC. 78. On the first day of July, of each year, the Auditor General shall make out a separate statement of all such lands as the taxes shall remain due upon, in each of the respective counties, specifying the amount of taxes due on each parcel, the interest thereon computed, as is provided in section seventy of this act, to the first day of October thereafter, together with the costs of advertising, postages, expense of sale and returns thereof and conveyances, which shall be charged at one dollar and fifty cents upon each parcel of land contained in such list; and accompanying or preceding such statements the Auditor General shall cause to be published, as hereinafter shall be provided, a list of all lands not sold by the several county treasurers at the time prescribed by law, on account of error in advertising, or other cause, not affecting the legality of the assessment, or requiring a rejection of the taxes thereon, and on which the taxes, interest, and charges still remain unpaid or not otherwise discharged for the taxes of any year prior to

Auditor
General to
make state-
ments of
lands, speci-
fying, etc.

that for which the statements above mentioned are made up ; also, a notice of sale, by the county treasurer, of State tax lands ; and deeds given by the Auditor General to purchasers at such sales, or their assigns, shall take effect according to the year's tax for which the deed may be given, the deed for the latest year's tax taking precedence ; and the interest on such re-advertised lists shall be computed at the same rate as in other cases, up to the time of the ensuing annual tax sales.

Publication
of statement
in county
where lands
are situated.

SEC. 79. The Auditor General shall cause each of such statements to be published in the county in which the lands therein described are situated, for eight weeks successively, next previous to the first Monday of October, in each year (which shall be construed to mean eight publications, once a week), in one newspaper printed and published in such county, if there be one which shall have been established therein two months prior to the first day of July ; and, in case there is no such newspaper printed and published in the county, such statement shall be printed and published in an adjoining county, if there be such newspaper established therein, for the period aforesaid ; but, if there is no such newspaper printed or published in the same or any adjoining county, such statement shall be printed and published in some other newspaper to be designated by the Auditor General.

Papers to be
designated
by Auditor
General.

SEC. 80. The newspapers in which such statements are to be published shall be designated by the Auditor General, on or before the first day of July in each and every year, and not afterwards, unless the proprietor of any paper so designated shall fail to accept such designation before the fifteenth day of the said month of July, or shall neglect or refuse to print and publish such statement, or unless from some other cause it shall become impracticable ; in which case the Auditor General shall designate some other paper for that purpose, before the time limited for commencing the publication.

SEC. 81. The proprietor of any paper accepting such designation shall transmit to each of the county treasurers one copy of each of the two first numbers of his paper containing such statement, and to the Auditor General one copy thereof during the whole time of such publication; for printing and publishing such statement and furnishing copies of his paper as herein required, and publishing the notices required by sections seventy-eight, eighty-two, and one hundred and twenty of this act, he shall receive not to exceed forty cents for each description of land so advertised; and no printer shall be paid for publishing any such statement who shall not forward to the Auditor General, within thirty days after the last publication thereof, an affidavit, made by some person to whom the facts are known, stating such publications, and also that he has transmitted to each county treasurer, by mail, copies of the two first numbers of his papers containing such statement immediately after their publication.

Proprietor of paper to furnish county treasurer and Auditor with copy.
Payment for printing, etc.

SEC. 82. The Auditor General shall annex to and cause to be published with each of said statements, a notice that so much of each tract or parcel of land described in said statement as will be necessary for that purpose will be sold by the county treasurer, on the first Monday of October next thereafter, at such public and convenient place at the seat of justice of the county as the county treasurer may select, for the payment of the taxes, interest, and charges thereon.

Notice of sale to be published with statement.

SEC. 83. As soon after the first Monday of September as shall be practicable, the Auditor General shall prepare and transmit to the several county treasurers, lists of all lands described in the respective statements on which the taxes, interest, and charges shall have been paid, which lands, together with all the lands whereon the taxes, interest, and charges shall have been paid to the county treasurer before the sale, shall be struck from the statement of lands advertised to be sold by the respective county treasurers, and shall be withheld from sale.

When Auditor to furnish lists of lands to be withheld from sale.

Sale; how
made.

SEC. 84. On the day designated in the notice of sale, the several county treasurers, under the direction of the Auditor General, shall commence the sale of those lands on which the taxes shall not have been paid as aforesaid, and shall continue the same from day to day (Sundays excepted), until so much of each parcel thereof shall be sold as shall be sufficient to pay the taxes, interest, and charges thereon: *Provided*, That every description of land embraced in said notice, which has been bid off to the State at a previous sale, and which remains unredeemed or otherwise disposed of, shall be bid off to the State by said county treasurers; and any sale made in contravention of this proviso shall be absolutely void and of no effect.

Proviso.

When less
than whole
of parcel is
sold.

SEC. 85. In case less than the whole of any parcel described in the statements aforesaid shall be sold for the taxes, interest, and charges thereon, the portion thereof sold shall be taken from the north side or north end of such parcel, and shall be bounded on the south by a line running parallel with the northerly line thereof, unless the same be an irregular fraction; in which case the portion thereof so sold shall be bounded on the south by a line running due east and west.

Payment of
bids; when
to be made,
etc.

SEC. 86. The county treasurers may, in their discretion, require immediate payment of any person to whom any parcel of such land shall be struck off; and in all cases where payment is not made in twenty-four hours he may declare the bid canceled, and at his discretion sell the land again; and any person to whom any parcel of land shall be so struck off, neglecting for twenty-four hours after the close of such sale to pay to the county treasurer the amount of such bid, shall forfeit to the State five times the amount of such bid, which amount may be recovered, in the name of the people of the State of Michigan, in an action of debt, in any court of competent jurisdiction.

When land
to be bid off
for State.

* SEC. 87. If any parcel of land cannot be sold to any person for the taxes, interest, and charges, such parcel shall be

* As amended, 1871.

passed over, for the time being, and shall, on the succeeding day, or before the close of the sale, be re-offered; and if, on such second offer, or during such sale, the same cannot be sold for the amount aforesaid, the county treasurer shall bid off the same for the State: *Provided*, That from and after the passage of this act, if the treasurer of any county shall, for any reason, fail to offer the lands lying therein and advertised as for sale for delinquent taxes thereon, then so many of the lands so advertised as shall not be so offered for sale shall be considered and treated as if bid off for the State by the county treasurer, and shall be subject to redemption and sale, in the same manner, and within the same time as may be provided by law in the case of lands actually bid off for the State, as is provided in the first clause of this section.

SEC. 88. All lands bid off for the State, as provided in the last preceding section, shall continue liable to be taxed in the same manner as if they were not the property of the State, and such taxes shall be a charge upon such lands. Lands so bid off liable to be taxed.

SEC. 89. The several county treasurers shall receive, on such sales, such funds only as shall at the time be receivable by law at the State treasury; and all moneys received at such sales shall be paid into the State treasury on or before the fifteenth day of November next after the time of such sale, and the expenses of advertising and sale shall be paid therefrom on the Auditor General's warrant, and the remainder shall be placed to the credit of the general fund as received. Funds receivable at sales, and how disposed of.

SEC. 90. At the sale aforesaid, the respective county treasurers shall give to the purchasers, on the payment of their bids, a certificate in writing, describing the lands purchased and the amount paid therefor, and such certificate shall be regularly numbered, and a copy of each forwarded by the county treasurers to the Auditor General, in such manner as he shall direct. Certificate of sale.

SEC. 91. On presentation of such certificate of sale to the Auditor General, after the expiration of the time provided by Deed to purchaser.

TAX LAW.

for the redemption of land sold as aforesaid, he shall execute, as the purchaser, his heirs or assigns, a deed of the land ~~thereof~~ described, unless the sale thereof shall have been ~~previously~~ ~~or~~ annulled as by law provided, which deed shall be ~~with the evidence~~ of the regularity of all the proceedings, ~~from the valuation~~ of the lands by the assessors to the date of ~~the sale~~ inclusive, and of title in fee in the purchaser, and ~~the said deed~~ shall be witnessed and acknowledged in the ~~manner prescribed~~ by law for witnessing and acknowledging ~~deeds in other cases.~~

~~Sec. 92.~~ In case of the loss of such certificate of sale, the ~~owner~~ or his legal representative or assignee, may file his ~~affidavit~~ of such loss, and that he was at the time of such loss ~~the owner~~ and legal holder thereof; and the Auditor General ~~shall~~ thereupon execute, as aforesaid, a deed for the lands ~~described~~ in such certificate, if the same shall not have been ~~redeemed~~, in the same manner as though it had been presented ~~and~~ surrendered; and, if the same shall have been redeemed, ~~on~~ the presentation of such affidavit, the money shall be paid ~~to~~ such person in the same manner as though the certificate of ~~sale~~ had been surrendered. Any person who shall make an ~~affidavit~~, as above required, or concerning any other matter which may be filed in the office of the Auditor General, shall be liable to the penalties of perjury, for any false statement made in such affidavit with intent to defraud, upon conviction thereof, before a court having jurisdiction of the offense.

~~SEC. 93.~~ Any person owning any of the lands sold as aforesaid, or any interest therein, may, on or at any time previous to the thirtieth day of September next succeeding such sale, redeem any parcel of said lands, or any part or interest in said lands, by showing to the satisfaction of the Auditor General or county treasurer that he owns only that part or interest in the same which he proposes to redeem, and by paying at his option into the State treasury, or to the treasurer of the county where such land is situated, the amount for which such parcel was

sold, or such portion thereof as the part or interest redeemed shall amount to, with interest thereon at the rate of fifty per cent per annum; of which interest twenty-five per cent shall be paid by the State Treasurer to the purchaser, and twenty-five per cent shall belong to the State and be passed to the credit of the general fund.

SEC. 94. When any land shall be redeemed as provided in the preceding section, the interest shall in all cases be computed from the day of sale up to the end of the current quarter of the year limited for such redemption. Interest; how computed.

SEC. 95. Upon the payment of the redemption money and interest to the county treasurer as aforesaid, he shall issue duplicate certificates of redemption in the usual form, both of which certificates shall be countersigned by the county clerk, who shall make an entry of the number of each certificate, the amount for which it was given, and the name of the person paying the same; one of which certificates shall be delivered to the person making the payment, and the other shall be transmitted by the county clerk to the Auditor General, on the first Monday in each month, in the same manner as is now required for the transmission of duplicate receipts. Certificates of redemption to be issued in duplicate, etc.

SEC. 96. The total amount of such redemption certificate shall be charged by the Auditor General to the county returning the same, if the amount shall be found by the books of his office to be due such county; and, if not thus due, then the said amount shall be deposited in the State treasury by the county treasurer, at such times as the Auditor General shall require; and, if the said county treasurer shall refuse or neglect, for thirty days after such requirement, to pay over or deposit the amount as aforesaid, he shall be subject to a prosecution by the Auditor General, under the provisions of the thirty-sixth section, chapter one hundred and fifty-four, of the revised statutes of eighteen hundred and forty-six, and upon conviction, shall be punished as therein mentioned. When Auditor to charge county with amount of certificate, etc.

Bond of
county
treasurer to
Auditor
General.

SEC. 97. Every county treasurer shall, on or before the first day of June next succeeding his election, execute to the Auditor General a bond, in such sum as the said Auditor shall direct, with three or more sureties, to be approved of by the prosecuting attorney, probate judge, or circuit court commissioner of the proper county, and the said Auditor, conditioned that such treasurer, his deputy, and all persons employed in his office, shall render a just and true account of all moneys received by him or them for sales of lands at the annual tax sales, and for redemption thereof, and all other money which may otherwise come into his or their hands, belonging to the State, and that he or they shall faithfully and promptly pay to the State Treasurer all such moneys received as aforesaid, whenever required so to do by the Auditor General, which bond shall be filed in the office of said Auditor.

When Auditor
General
may employ
some person
other than
county treasurer
to conduct sales,
etc.

SEC. 98. In case the said county treasurer shall refuse or neglect to execute and file such bond at the time and in the manner aforesaid, the Auditor General shall employ, in behalf of the State, some other person to conduct the annual sales of lands delinquent for taxes, and to receive payment therefor, under his direction, any law to the contrary notwithstanding, upon such person executing and filing with the said Auditor a similar bond, with sureties as above mentioned, to be by him approved, conditioned for the faithful and prompt payment to the State Treasurer of all moneys which may come into his hands as the proceeds of such sale or otherwise, belonging to the State, whenever required so to do by the Auditor General, as aforesaid; and a reasonable compensation for the services of such person shall be allowed and paid out of said proceeds.

Proceedings
in case of
irregularity.

SEC. 99. If the Auditor General shall discover, before the sale of any lands, as aforesaid, that for any reason they should not be sold, he shall cause the same to be withheld from sale; and, if the error through which said lands were offered for sale originated with the township or county officers, the amount for which they were so offered shall be charged against the county

from which the tax was returned; and the supervisors of such county shall cause the same to be refunded to the State treasury.

SEC. 100. Whenever any lands returned to the office of the Auditor General shall have been sold on account of non-payment of taxes thereon, if the Auditor General shall discover, before a conveyance of said land is executed and delivered—

*Proceedings
in case of
irregularity.*

First. That the land so sold was not subject to taxation at the date of the assessment of the taxes for which it was sold; or,

Second. That the taxes had been paid to the proper officer within the time limited by law for the payment or redemption thereof; or,

Third. That such sale was in contravention of section eighty-four of this act; or,

Fourth. That a certificate that no taxes were charged against said land has been given by the proper officer, within the time limited by law for the payment or redemption thereof, he shall withhold a conveyance of such lands, and shall, on demand, cause the money paid therefor to be refunded to the purchaser, with interest thereon at seven per cent: *Provided*, That in the last-mentioned case the person in whose behalf such certificate was given shall, at the time of presenting such certificate to the Auditor General, pay to the State Treasurer, on the statement of the Auditor General, all taxes and charges due to the State upon such land at the time such certificate was issued.

Proviso.

SEC. 101. Any person having an interest in any lands sold as aforesaid for delinquent taxes, whether in his own right or in trust, or as executor, administrator, guardian, or trustee, may, at any time within two years from the date of the purchase, and in cases of sales at any time heretofore made by the county treasurer as aforesaid, within one year from the time this act shall take effect, and not after those periods, as hereinafter provided, make an affidavit, and file the same with the circuit court commissioner of the county in which the land is situated, set-

*Persons
interested in
lands so sold
may take
proofs before
circuit court
commissioner.*

ting forth that the taxes have been paid to the proper officer, or that he has good reason to believe and does believe that there are irregularities in the assessment and subsequent proceedings affecting the rights of the owner of said land, which prevented the payment of the taxes or the redemption thereof, and especially setting forth such and all such objections and alleged errors on which he relies; he may take the depositions of such witnesses before said circuit court commissioner, touching the facts required to be set forth in the affidavit on file, in the same manner and form prescribed by law and the rules of court for taking depositions, to be used in the circuit court in chancery; but not less than twenty days' notice shall be given, and at the same time a copy of the affidavit on file, to all persons having an interest in the title purchased from the State as aforesaid, of the time and place of taking such depositions, at which time and place the holder of the tax title may take the depositions of such witnesses as he may deem necessary, either for the purpose of impeaching the witnesses of the other party, or otherwise sustaining his said title, or in any wise affecting the issue. The commissioner shall have power to administer oaths to all such witnesses, whose depositions either party may desire, and may issue subpoenas for witnesses, and may continue the time of taking the testimony as justice may require; and said depositions, when so taken, together with the affidavit and all other papers on file, shall within ten days after the closing of the taking of the same be delivered by the commissioner to the clerk of the circuit court of that county, together with such objections to the testimony as may be taken by either party; and the court shall thereupon, at the next or some subsequent term, proceed to examine the testimony, and if the court shall be satisfied that any of the reasons required to be and so set forth in the affidavit on file, claiming to affect the rights of such party in interest, prevented the payment of the taxes, or that the taxes have been paid to the proper officer within the time prescribed by law for the payment or redemption thereof, said

Notice to persons interested in title from State.

Power of commissioner, etc.

Court to examine testimony and render judgment.

court shall render judgment accordingly, annulling said title or otherwise affirming it, as the case may be, which judgment shall be recorded as other judgments in said court, subject to be reviewed on writ of *certiorari* by the supreme court at any time within two years: *Provided*, That if either party shall so Provide. direct, he shall have, as in other cases, a trial of the matters of fact before said circuit court by a jury: *And provided further*, Ibid. That the party may present such affidavit at any time within five years from the date of the purchase—

First. When the land sold as aforesaid was not subject to taxation at the date of the assessment of the taxes for which it was sold;

Second. When the taxes upon the land sold as aforesaid have been paid to the proper officer, within the time limited by law for the payment or redemption thereof, and the party holds said officer's receipt therefor.

SEC. 102. Whenever any judge of the circuit court shall have annulled, for any of the reasons enumerated in the preceding section, the title to any description of land conveyed in any deed executed by the Auditor General as aforesaid, or any part thereof, the clerk of the circuit court of the county in which the land is situated shall, on application of either party, and the payment of fifty cents, make and deliver to such party a certified copy of such judgment. And whenever such copy of judgment shall be presented to the register of deeds of said county, where said deed shall have been recorded, the register shall record the same, and make a short written memorandum on the margin or face of the deed, of the description of the land, and that the title has been annulled or affirmed, as the case may be, and the date of the judgment, and of the recording thereof.

SEC. 103. In all cases where lands sold for taxes have been conveyed by deed, and the title has been annulled pursuant to law, for any cause enumerated in section one hundred and sixty-four of this act, the Auditor General shall, on presentation of title.

a copy of the judgment annulling the same, refund to the holder of said title the purchase money and interest thereon, as the law requires, and certify the fact to the proper county treasurer.

Such money to be refunded the State by the county, etc.

SEC. 104. Such money, when paid by the State Treasurer, shall be refunded to the State treasury by the proper county, and, in any action of ejectment brought by the owner to recover such lands, the State shall not be liable to costs.

Statement of Accounts and Settlement thereof with the Counties.

When Auditor General to state account of county treasurers.

SEC. 105. The Auditor General shall state the account of the several county treasurers, on the first day of July in each year, allowing to the several counties ten per cent interest on such portions of the taxes unpaid on the first day of February in the same year, as shall belong to them, for township and county purposes, and shall transmit a copy thereof by mail, or otherwise, to the county clerk, who shall lay the same before the board of supervisors at their first meeting after the receipt of the same.

Annual settlement.

* SEC. 106. When the return of the sa'e of land delinquent for taxes assessed thereon, is received by the Auditor General from the treasurer of any county, the Auditor General shall make and deliver to the county treasurer making such return, a transcript of the account between said county and the State as it appears upon the books in the Auditor General's office, deducting from the amount of the credits thereof, the amount of bids to the State as appears from such county treasurer's return of tax sales; and the balance, as is shown after deducting such bids to the State, shall be paid to or by the county, as by such transcript is shown should be done. This section shall be so construed as to provide for such a settlement of accounts between the State and the several counties as shall require the counties to carry the uncollected taxes until the period of redemption expires, after which time the State shall carry such taxes.

* As amended, 1871.

SEC. 107. For performing the duties pertaining to the sale of lands for non-payment of taxes, each county treasurer shall be entitled to the following fees: Fees of county treasurers for duties at sales.

For each transcript of list of lands advertised to be offered for sale by the county treasurer, made by him or his employes, two cents for each description of land correctly transcribed ;

For making entry in sales' books, showing the disposition of the land therein described, two cents for each entry correctly made ;

For making certificates of sale, two cents for each description of land sold to individuals and correctly certified ;

Which fees shall be in full for all services rendered by the county treasurer in connection with the annual sale of lands for the non-payment of taxes: *Provided*, That in addition to the above fees each county treasurer shall be paid the actual necessary expenses incurred in making to the Auditor General the return of such sale as required by law: *And provided further*, That if any county treasurer shall fail to make his return of tax sales to the Auditor General, in the manner and within the time required by law, he shall not be entitled to any part of the pay provided in this section. To be in full for all services. *Provido.*

SEC. 108. Whenever it shall come to the knowledge of the Auditor General that any tax returned to his office has been paid to the township or county treasurers, or that there was a double assessment upon any lands, or that any parcel was so erroneously or defectively described that it cannot be sold, or that any parcel was not subject to taxation at the time said taxes were assessed, he shall forward to the treasurer of the county in which such lands shall then be situated, or to which they may be attached, a description of such lands, together with a statement of the amount of taxes, interest, and charges thereon, and specifying for what year or years such taxes were originally assessed. Proceedings when Auditor ascertains that a tax returned has been paid.

SEC. 109. The Auditor General is authorized and required, in all cases where taxes upon lands returned delinquent to his office shall be rejected for any cause, or having been credited Auditor to charge rejected taxes to county.

shall be charged back on the books of his office, to charge the same over to the county from which such taxes were returned, unless the lands upon which the same were assessed shall have been set off to some other county, or attached to some other county for judicial purposes; and in case such lands shall have been so set off or attached, they shall be charged to the county to which they belong at the time of such rejection.

County treasurer to lay statement before board of supervisors.

SEC. 110. The county treasurer receiving such certificate of the Auditor General, shall lay the same before the board of supervisors at their next session thereafter, and if such taxes shall have been rejected or charged back by the Auditor General, except for the reason that such land was not subject to taxation at the time of the assessment for such taxes, or that the taxes thereon had been once paid, or that there had been a double assessment thereof, the board of supervisors shall cause the same to be re-assessed upon the same land, and collected with the taxes of the then current year, and in the same manner.

Re-assessment of rejected taxes.

SEC. 111. If such taxes cannot be properly re-assessed upon the same lands, the boards of supervisors shall cause the same or any part thereof to be re-assessed upon the taxable property of the proper township, as may appear equitable.

When board to furnish Auditor list of taxes charged to county.

SEC. 112. It shall be the duty of the board of supervisors to furnish to the Auditor General a list of all taxes which shall have been rejected or charged back to their county by him, upon lands which shall have been detached from such county subsequent to the time when such taxes were assessed, and the Auditor General shall thereupon credit to such county the amount which he may have so charged back, and charge the same to the county in which such lands may be then situated :

Provided.

Provided, Such taxes shall not have been previously paid or re-assessed.

Proceedings when tax exceeds limit fixed by law.

SEC. 113. Whenever the Auditor General shall have rejected any State, county, or township tax, for the reason that the amount assessed for any such purpose exceeds the limitation

established by law, the county treasurer of the county in which the lands so assessed shall be situated shall make out and present to the board of supervisors thereof, at their next session, a list of the lands, with the taxes assessed, and the interest accrued thereon.

SEC. 114. The board of supervisors shall cause so much of said taxes as shall remain unpaid, and as shall not exceed the limit fixed by law, for the year in which they were originally assessed, to be re-assessed upon the same lands, if they can legally do so, and collected with and in the same manner as the taxes for the year in which the same shall be re-assessed, as aforesaid.

SEC. 115. If any such taxes cannot be properly re-assessed upon the same lands, the board of supervisors shall cause the same, or any part thereof, under the limitations aforesaid, to be assessed upon the taxable property of the proper township, as may appear equitable.

SEC. 116. If at any time it shall be discovered that the treasurer of any township has received the tax assessed upon property which he has returned delinquent, the supervisor shall have power, and he is hereby required to collect the same, in the name of his township, from such treasurer or his sureties, together with interest and charges.

Of Lands bid off to the State for Taxes ; their Redemption and Sale.

SEC. 117. All lands heretofore bid off or that may hereafter be bid off to the State for taxes, which have not been redeemed or otherwise discharged, shall be offered for sale at the annual tax sales in October in each year.

SEC. 118. The Auditor General shall furnish to each of the county treasurers, in the month of September, in each and every year, a full and accurate statement of all the lands in his county that may have been bid in for the State, remaining unredeemed or not otherwise discharged.

Contents of. **SEC. 119.** Such statement shall exhibit the aggregate amount of all sums due to the State on each description of land, including interest thereon, at the rate of fifty per centum per annum, from the time the lands were bid in by the State to the first day of October in the year in which they shall be first offered as State tax lands, as contemplated in the preceding section :

Proviso. *Provided,* That on all State tax lands which have or should have been once previously offered at public sales, and which, remaining unsold, are again to be offered as above, there shall be charged upon the amount for which each description thereof has or should have been so offered, interest at the rate of ten per centum per annum, from the time when they were so or should have been so first offered, to the said first day of October.

Notice of sale. **SEC. 120.** The Auditor General shall cause to be published for eight weeks successively (which shall be construed to mean eight publications, once a week) next previous to the first Monday of October in each year, a notice that the lands described in such statement will be sold at public auction by the treasurer of the county in which such lands are situated, at the time and place designated for the ordinary tax sales, under the direction of the Auditor General.

Time and manner of sale. **SEC. 121.** At the time designated in the notice, and immediately previous to the sale of other lands advertised to be sold for taxes at the same time, such county treasurer shall commence the sale at the place designated, and continue the same from day to day, if necessary (Sundays excepted), until he has offered all the lands embraced in his list which have not been redeemed or otherwise discharged; and any person to whom any parcel of land has been struck off by the county treasurer, who shall neglect or refuse to pay the amount bid by him on any parcel of land offered as above, for twenty-four hours after the lists shall have been gone through, shall be subject to the penalty imposed by section eighty-six of this act.

SEC. 122. In all cases when a description of land is offered as State tax land, and the same description or any part thereof shall be offered in the regular list of lands delinquent for taxes, as provided in section eighty-four of this act, it shall be the duty of the county treasurer to inform the person bidding for the description offered as State tax land of the fact, and such person shall be required to purchase the description so offered in the regular list at the same time the description offered as State tax land is bid off by him; and, in case of his neglect or refusal so to do, the treasurer shall decline the bid of the person so refusing, but shall continue to offer such description as if no bid had been made thereon.

Duty of county treasurer when a description shall be offered in list of delinquent lands.

SEC. 123. The county treasurer shall, on payment of the purchase money at such sale, issue certificates of sale to the purchasers in such form and make such returns to the Auditor General as shall be prescribed by him, and shall also transmit the moneys received on such sale to the State Treasurer, in such manner as is provided in section eighty-nine of this act.

Certificates of sale; issue of by county treasurer, etc.

SEC. 124. In addition to the lists required by section seventy-eight and one hundred and eighteen of this act, the Auditor General shall also furnish annually, in the month of September, to each county treasurer a list of all State tax lands remaining unsold for five or more years from the time such lands were bid off to the State, which land shall at the next annual tax sale be offered for sale to the highest bidder, without reference to the minimum as established by law, or the cost to the State of each parcel, in taxes, interest, and charges; and all money received at such sale in excess of the amount charged against any parcel of land so offered shall be placed to the credit of the county in which such parcel of land may be situated; and, if any parcel of land so offered shall be sold for less than the amount for which it was bid off to the State, then the proper county shall be charged with the difference between the sum for which such parcel was so sold and the amount for which it was originally bid off to the State; but such State tax lands shall be sold sub-

Sale of lands having remained unsold for five or more years.

How sale to be made, etc. subject to the same conditions and restrictions in other respects as are now or may hereafter be provided by law in regard to other State tax lands; and lands to be sold under the provisions of this section shall be offered for sale prior to the sale of other State tax lands.

Deed to purchaser by Auditor General.

SEC. 125. The Auditor General shall, on the presentation and surrender of the State tax land certificates of sale at his office, or as soon thereafter as may be (except in cases where the land has been previously sold at the Auditor General's office, or redeemed, when the purchase money only shall be refunded), execute a deed of the land to the purchaser or his assigns, which shall convey all the right acquired by the State under the original sale or sales: *Provided*, That such deed shall be subject to all the conditions, and have the same force and effect, as is given by section ninety-one of this act to deeds executed in accordance with the provisions thereof.

Proviso.

Sale at office of Auditor General of such unredeemed lands.

SEC. 126. All such lands remaining unredeemed, except such descriptions as the State may have a title to for another year or years, shall be subject to sale at any time at the office of the Auditor General, and upon the payment therefor, on his certificate, to the State Treasurer, of the amount for which such lands were bid off to the State, with interest at fifty per cent per annum, to be computed from the first day of October of the year in which such lands were bid off to the State, to the time of such application, the Auditor General shall issue to the purchaser a certificate of purchase.

Certificate of purchase therefor.

When deed to be issued to purchaser of certificate

SEC. 127. If such lands shall be redeemed, the purchaser shall be entitled to the amount paid therefor, together with twenty-five per cent interest, as contemplated and provided in section ninety-three of this act; if otherwise discharged, then to the amount paid by him, with interest at seven per cent per annum, to be computed from the date of the purchase to the date of such discharge; but, if such lands are not redeemed or otherwise discharged according to law, the Auditor General shall, on the surrender of such certificate of purchase, execute to the purchaser a deed for the lands therein described.

SEC. 128. Any person may purchase any unsold State tax land upon application therefor at the office of the Auditor General, and upon paying to the State Treasurer on the certificate of the Auditor General, the amount for which the same was or should have been first offered in the county as State tax land, with interest upon said amount at ten per cent per annum, to be computed from the first day of October, in the year in which such land was or should have been so first offered in the county, to the day of making such application and payment.

Purchase of unsold State tax land at Auditor General's office.

SEC. 129. Upon application and payment being made, as above mentioned, the Auditor General shall execute to such purchaser a deed, conveying all the right, title, and interest of the State in and to said State tax lands, acquired by virtue of the original sale or sales to the State.

When deed to issue.

SEC. 130. All the provisions of law relative to deeds executed by the Auditor General, on the surrender of certificates of sale of State tax lands, issued by the several county treasurers, shall be applicable to deeds executed by him for lands purchased at his office, pursuant to the provisions of this act.

What provisions of law applicable to State tax land deeds.

SEC. 131. The purchaser of any lands bid in for the State at the annual tax sales, and sold pursuant to the provisions of this act, on application to the Auditor General for a deed, shall pay an office charge of thirty cents for the first and five cents for each subsequent description contained in such deed, which shall be paid into the State treasury, to the credit of the general fund.

Office charges paid by purchaser, etc.

SEC. 132. All expenses of sale, postage and other charges incident to the sales of lands bid in for the State, as aforesaid, shall be audited by the Auditor General, and paid out of the general fund on his warrant.

Expenses of sale, etc.; how paid.

SEC. 133. In case it shall become necessary, in the prosecution of an action of ejectment by any person holding an adverse claim to any land bid in for the State, as provided in this chapter, the Auditor General may be defendant, and in all cases in the prosecution or defense of an action of ejectment or tres-

Auditor General to be defendant in action of ejectment.

pass, by any person holding or claiming land under any deed or deeds, or other conveyance of lands bid off or purchased for delinquent or unpaid taxes, the party so claiming, under and by virtue of such purchase for unpaid taxes as aforesaid, may show his title to said land and premises, whether the same was derived under one or more purchases or sales for taxes or otherwise, and may give in evidence any and all deeds of conveyance or other evidence of such purchase as aforesaid, which he may at any one or more different times have received on sales for taxes, and may claim title under any or all of them.

Right of the State to enforce collection of taxes, etc., not to be prejudiced.

SEC. 134. Neither the sale of any State tax lands, nor the sale of any of the bids of the State for which the time of redemption has not expired, shall in any wise prejudice the right of the State to enforce the collection of any tax subsequent to the year or years for which the same have been sold as aforesaid, and for the taxes and charges remaining unpaid for such subsequent year or years, the Auditor General shall cause such lands to be offered in regular succession, at the next ensuing annual sales for taxes, in the proper county, giving the notice required by law, unless previously redeemed or otherwise discharged.

All lands sold, etc., to be subject to laws pertaining to interest and redemption.

SEC. 135. All lands sold for the non-payment of taxes under the laws of this State, which were in force on the fifth day of October, eighteen hundred and sixty-eight, whether sold to individuals or bid off for the State, shall be subject to such laws as were then in force in all matters pertaining to interest and redemption, and to the refunding the purchase money in all cases wherein the sale of such lands has or shall be made void, whether by redemption or in such other manner as was by such laws provided.

Miscellaneous Provisions.

Persons having lien may pay taxes, etc., thereby creating additional lien.

SEC. 136. Any person who has a lien upon any lands returned for non-payment of taxes, may pay the taxes, interest, and charges thereon; and the receipt of the county treasurer or State Treasurer therefor, duly countersigned, shall constitute

an additional lien on such land, to the amount therein specified; and the amount so specified shall be collectable, with interest thereon, in the same manner as the original lien.

SEC. 137. If any township clerk or supervisor shall willfully neglect or refuse to perform any of the duties required of him by the provisions of this act, he shall forfeit and pay a sum not exceeding five hundred dollars to any person injured by each case of such neglect, but such sum shall not exceed the injury sustained. Penalty for neglect by certain officers.

SEC. 138. The board of supervisors of each county shall, at their annual session in each year, transmit to the prosecuting attorney the names and places of abode of all township clerks and supervisors within their county, who shall have incurred any forfeiture under the provisions of this act, and such prosecuting attorney shall immediately prosecute for such forfeiture. Board of supervisors to notify prosecuting attorney of forfeitures.

SEC. 139. All losses that may be sustained by the default of the treasurer of any township shall be chargeable on such township; and all losses that may be sustained by the default of any county treasurer, in the discharge of the duties imposed by this act, shall be chargeable on such county, and the board of supervisors of such county shall add such losses to the next year's taxes of such township or county. Losses by default of town or county treasurers.

SEC. 140. The Auditor General shall from time to time furnish suitable blanks, in addition to those required by the preceding provisions of this act, for returns of unpaid taxes, receipts, and certificates of sale, which shall be sent to the several county treasurers. Auditor General to furnish blanks required.

SEC. 141. The assessors of the several wards in the city of Detroit shall have and exercise the powers and duties of supervisors, and the collectors of the several wards in said city shall have and exercise the powers and duties of township treasurers, under the provisions of this act. Detroit; who to perform duties of supervisors and treasurers therein.

SEC. 142. The Auditor General shall, from time to time, whenever he shall find it necessary, cause to be printed at the expense of the State, a sufficient number of copies of this act, Authority of Auditor to print act, etc.

with such forms of proceeding under the same as may be necessary and proper, to furnish one copy to each supervisor, township treasurer, township clerk, and county clerk, and three copies to each county treasurer, and shall transmit to each county treasurer, at the expense of the county, a sufficient number for such county; and every county treasurer receiving such copies shall immediately transmit to the township clerk of each township five copies, to be distributed by him to the officers entitled thereto.

Liability of
officers for
neglect to
perform
duties.

SEC. 143. Any officer who shall willfully neglect or refuse to perform any of the duties imposed upon him by this act shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by imprisonment in the county jail not exceeding one year, or by fine not exceeding five hundred dollars, in the discretion of the court.

Rights of
parties to
surplus
arising from
sale of taxes.

SEC. 144. Whenever a surplus arising from the sale of any property distrained for taxes shall be claimed by any other than the person for whose tax such property was sold, and such claim shall be contested by such person, such claimant may prosecute an action against such person; or the person for whose tax such property was sold may prosecute such action against such claimant, as for money had and received; in which action the right of the respective parties to such surplus shall be tried and determined.

Proceedings
to determine

Ibid.

SEC. 145. For the purpose of such action, the defendant shall be deemed to be in possession of the surplus in the hands of the township treasurer, and, upon the presentation to such treasurer of a certified copy of the final judgment rendered in such action, the said treasurer shall pay over the same to the party recovering such judgment; and no township treasurer shall be liable to any claimant of such surplus, the right to which is contested as provided in this act, until he shall have refused to pay over such surplus, upon the production of a certified copy of a judgment as aforesaid.

SEC. 146. In any action brought pursuant to the two last preceding sections, no other cause of action shall be joined, nor shall any set-off be allowed; and, if an execution issue on a judgment so rendered, it shall direct the costs only of such action to be levied by virtue thereof. Proceedings to determine

SEC. 147. It shall be the duty of the prosecuting attorney of each county to give his counsel and advice to the county treasurer, the township treasurer, and the supervisors of the county, whenever they or any of them may deem it necessary, for the proper discharge of the duties imposed upon them in this act, free of charge. Duty of prosecuting attorney.

SEC. 148. Whenever any county treasurer shall pay to any township treasurer any moneys on account of taxes returned from such township, it shall be the duty of such county treasurer immediately to notify the clerk of the proper township of the amount so paid to such township treasurer. County treasurers paying money to township treasurers, to notify township clerk.

* SEC. 149. In all cases of sale of land for taxes, if the purchaser or his assigns shall die before a deed shall be executed on such sale, the deed may be executed by the Auditor General to and in the name of the deceased person, if such deceased person being still alive would be entitled to a deed; which deed shall vest the title in the heirs or devisees of such deceased person, in the same manner and liable to like claims of creditors and other persons as if the same had been executed to such deceased person immediately previous to his death (or the executor or administrator may assign the certificate of purchase, and the deed may issue to the assignee thereof), and in like cases which have heretofore accrued, the same rule shall apply, and all deeds heretofore issued in the name of any deceased person who if living at the time of the execution thereof would have been entitled thereto, shall have like effect as above provided. In case of death of purchaser or assignee, to whom deeds to issue, etc.

SEC. 150. The supervisors of every township in which there shall be assessed the interest of any purchaser of university, primary school, State building, normal school, asylum, swamp, salt-spring, or other lands, the title of which vests in the State, Description of university, primary school, etc., land to be returned to county treasurer.

*As amended, 1871.

as personal property, shall, on or before the first day of November, in the year when the same was so assessed, transmit to the treasurer of his county a list of all such lands, containing a full description thereof, together with the names of the persons to whom the same was so assessed.

County treasurer to make return to State land office.

SEC. 151. The several county treasurers shall, at the same time and in the same manner they are now required to return to the office of the Auditor General lands delinquent for taxes in their respective counties, return to the State Land Office a statement of all university, primary school, State building, normal school, asylum, swamp, salt-spring, and other lands, the title of which vests in the State, upon which, from returns made to them by the township treasurer, it appears the taxes assessed have not been paid and cannot be collected.

Commissioner to enter same, etc., in books

SEC. 152. The Commissioner of the State Land Office shall provide suitable books, and enter in the same the description of every parcel of land so returned to his office, and the taxes assessed on the same.

Forfeiture in case of neglect to pay taxes thereon.

SEC. 153. The purchaser or purchasers of any parcel of land so returned, or the person or persons claiming to have any interest in the same, as the assignee or legal representative, in any other capacity, of such purchaser, shall, under pain of forfeiting his or their interest in such lands and in the certificates thereof, on or before the first day of July next succeeding the time when such annual interest is payable, pay to the State Treasurer the amount of taxes assessed upon any description of the lands so returned, with interest thereon from the first day of February following the assesment of the same, at the rate of fifteen per cent per annum, and in addition thereto, on each description, the sum of thirty cents, to defray the expenses of the collection of such taxes: *Provided*, That on all such taxes remaining unpaid on the first day of June following the assessment of the same, interest shall be computed at the rate of thirty per cent per annum, and from said first day of February.

Proviso.

SEC. 154. Every parcel of land returned under the provisions of this act, upon which the taxes and interest and charges aforesaid shall remain unpaid at the expiration of the time within which payment thereof is required to be made by the last preceding section, shall be deemed to have been forfeited to the State by the purchaser thereof, his assigns, or other legal representatives, and the land so forfeited shall be subject to sale and redemption in the same manner as other forfeited university and primary school lands now are.

Forfeitures
in case of
neglect to
pay taxes
thereon.

SEC. 155. The said Commissioner shall, on or before the first day of May and November in each year, make out and furnish to the Auditor General a statement containing a description of the lands upon which the taxes have been paid, and the amount of taxes, interest, and charges paid on such lands; and shall also, at the same time, transmit to the several county treasurers of the several counties of the State, a copy of such statement, so far as the same relates to each county respectively, and the county treasurer shall credit the respective townships with the portion of such taxes and interest belonging to them respectively.

When commissioner
to furnish Auditor
statement of
taxes paid.

SEC. 156. The Auditor General shall credit to the proper counties the taxes so paid, with the rate of interest allowed on other delinquent taxes, and place the balance of moneys arising from such interest and charges to the credit of the general fund.

Auditor
General to
credit counties.

SEC. 157. The board of supervisors of any organized county, to which is attached any unorganized territory for judicial purposes, may appoint one or more assessors, to be duly qualified, who shall hold their office until others are appointed, whose duty it shall be to assess the property liable to taxation in such unorganized territory, in the same manner as is herein prescribed for the supervisors of organized townships; who shall take, complete, and deliver the same to the county clerk of such organized county on or before the first day of October, which roll shall be equalized, and so make the aggregate valuation of

Appointment of
assessors for
unorganized
territory, by
board of supervisors,
etc.

said county, the same as the other township rolls; and the relative amount of State and county tax, together with the expense of assessment and collection, shall be apportioned to the property of said rolls the same as that of the several townships. It shall be the duty of the county clerk to affix the taxes so apportioned to a true copy of said roll, to annex his warrant thereto, to deliver the same to the sheriff, who shall give bonds to the county treasurer that shall be approved by him to collect and pay over the same, in the time, manner, and under the same restrictions as are herein prescribed for the town treasurers to collect and pay to the county treasurer their several State and county taxes. Said assessors shall be empowered, at any time before the first day of October, to make and complete an assessment in any organized townships that may fail or neglect to make or complete an assessment roll within the time required by this act, and shall deliver the same to the county clerk, who shall affix the taxes to a true copy thereof, and deliver the same to the sheriff of said county, who shall give bonds to the county treasurer, collect, and pay over the same in like manner as is required for the unorganized portion of said counties.

Duty of
county clerk.

Power of
assessor to
complete as-
sessment,
etc.

Improve-
ments by
purchasers
to be a lien
on lands.

SEC. 158. If any person, dispossessed of lands purchased in pursuance of the provisions of this act, shall have made valuable improvements thereon, he shall be entitled to receive what such improvements are reasonably worth, to be assessed on the trial of said cause, and the same so assessed shall be a lien on said land till paid.

Duty of
county
treasurer
when time is
extended for
collection of
taxes in
township,
etc.

SEC. 159. Whenever any township, village, or ward of a city shall ask and obtain an extension of time for the collection of taxes, it shall be the duty of the county treasurer of the county in which such township, village, or ward of a city is located, to compute the interest on the tax so extended, and charge the same to the township, village, or ward of the city that obtained such extension, but in no case shall the interest thus computed become a general charge to the county.

SEC. 160. When any new county shall be organized, the officers elected, and qualified, after the State and county tax has been assessed in such new county by the county to which it had been attached, and before the township treasurers have made their returns, the said township treasurers of such newly organized counties shall make their returns to and pay over the moneys and settle with the county treasurer of the county from whom they received their warrants, and to whom they have given bond, and the collection of said taxes shall proceed and be made as though no new county had been organized or set off.

Returns by town treasurers in newly organized counties; to whom made.

SEC. 161. Such newly organized county, and the county to which the same, or any part thereof, was formerly attached, shall settle and adjust their equitable rights in a division and apportionment of taxes between them, according to the provisions of section twenty-one, of chapter nine, of the compiled laws, and the sections following, to section twenty-five, inclusive.

Law for adjusting rights, etc., of newly organized counties.

SEC. 162. The Auditor General of this State is hereby authorized to execute a second deed upon tax-sale certificates, in all cases in which he shall be satisfied, by sufficient proof, that the original deed and record thereof in the proper county have been, or that such deed, if not recorded, has been lost or destroyed, which said deed shall declare upon its face that it is a second deed, and shall be executed to the same party only as the first, and shall recite the loss or destruction of the former deed, and its date, if possible, and shall only have the same force and effect; and it shall inure for the benefit of the grantee in the first, his heirs or assigns, as the case may be, in the same way as the first would have done if it had not been lost or destroyed, and shall have no other effect whatsoever.

When Auditor to issue second tax deed.

SEC. 163. No general or special tax authorized to be raised by the laws of this State, and which shall be assessed upon any property in any township or ward within the State, shall be held illegal or invalid for want of any matter of form in any

When tax not to be held illegal, etc.

matter or thing not affecting the merits of the case, and which shall not prejudice the rights of the party assessed; nor shall any sale of property for the non-payment of the taxes thereon be invalid unless it shall be made to appear that the legal taxes, costs, and charges were tendered to the proper officers within the time limited by law for the payment of such taxes; or, in case of the sale of real estate, unless it shall be made to appear that all legal taxes assessed upon such real estate, together with all legal costs and charges thereon, were tendered to the officer authorized to receive such redemption money, within the time limited by law for the redemption thereof, and all taxes assessed upon any property in this State shall be presumed to be legally assessed until the contrary is affirmatively shown; and no sale of real estate for the non-payment of the taxes thereon shall be rendered invalid by showing that any paper, certificate, return, or affidavit required to be made and filed in any office is not found in the office where the same ought to be filed or found; but, until the contrary is proven, the presumption shall be, in all cases, that such certificate, paper, return, or affidavit was made and filed in the proper office.

Proof required to defeat title to deed of land sold for taxes.

SEC. 164. In all suits and controversies involving the title to land, claimed and held by virtue of a deed executed by the Auditor General of this State, for non-payment of the taxes thereon, the person claiming adverse title to such deed shall be required to prove, in order to defeat the title conveyed by such deed, either that the land described therein was not subject to taxation at the date of the assessment of the tax for which it was sold; or that the taxes, for the non-payment of which such land was sold, were paid to the proper officer within the time limited by law therefor; or that the same had not been assessed for the taxes for the non-payment of which it was sold; or that the same had been redeemed pursuant to law; or that a certificate, in proper form, had been given by the proper officer, within the time limited by law for paying taxes, or redeeming from sales made for the non-payment thereof, stating that no

taxes were due, or that the lands were not subject to redemption; but no person shall be permitted to question the title acquired by such Auditor General's deed, without proving that he, or the person through whom he claims title, had title to the land at the time of the sale thereof for non-payment of taxes, or subsequently, which title was acquired from the United States or from this State.

SEC. 165. If any conveyance, made by the Auditor General pursuant to a sale made for non-payment of taxes, shall prove to be invalid and ineffectual to convey title, for any other cause than such as are enumerated in the preceding section, the lien which the State had on such land for its rightful proportion of taxes for State, county, township, and all lawful purposes shall remain in full force, and shall be transferred by such deed to the grantee and vested in him, his heirs and assigns, who shall be entitled to recover from the owner of such lands the amount of such legal taxes, together with all the lawful charges, with interest at twenty-five per cent from the date of such sale, and also the amount of all subsequent taxes paid by the person holding such title from the Auditor General, with like interest; and such claim shall be a lien upon such lands, and the same shall be bound for the payment thereof; and in case judgment shall be rendered against the person holding title from the Auditor General, as aforesaid, for the recovery of such land, in any action of ejectment, or other action, either at law or in equity, the court shall ascertain the amount due to the party holding such tax deed, for principal and interest, and for all improvements made by him on such lands, and shall decree the payment thereof within such reasonable time as may be determined by such court; and in default of such payment, shall decree that such lands be sold therefor, or sufficient thereof to pay the amount of such improvements, principal and interest, due to the party having such Auditor General's deed: *Provided*, That there shall be no right of redemption of such property after the date of sale.

When conveyance by Auditor General shall prove invalid, etc., the lien of State for taxes shall remain in full force, etc.

Provided.

Proceedings
in suit to
quiet title.

Who may be
made de-
fendants, etc

Proviso.

Acts re-
pealed.

SEC. 166. Any person holding any deed of lands, executed by the Auditor General for the non-payment of taxes, may commence a suit in the circuit court in chancery, of the county where such lands lie, to quiet his title thereto, without taking possession of such lands; and all parties who have or claim to have, or appear of record in the register's office of the county where such land is situated to have, any interest in such land, may be made defendants in such suit; and no outstanding unrecorded deed, mortgage, or claim shall be of any effect as against the title or right of the complainant, as fixed and declared by the decree made in such cause; and if, upon hearing of such cause, it shall appear that the complainant's title was invalid for any cause not enumerated in section one hundred and sixty-four of this act, such suit shall not be dismissed by the court, but the court shall ascertain the amount due to the complainant, for principal, and interest to be computed at twenty-five per cent per annum, and shall decree the payment thereof within a reasonable time, by the owner of such land, and in default thereof shall direct that such land be sold therefor, and that the equity and right of redemption of all defendants in such suit, and all persons claiming under them, shall be forever foreclosed: *Provided*, That the proceedings in such cases shall be conducted in the same manner, as near as may be, in conformity with practice in case of foreclosure of mortgages.

SEC. 167. An act entitled "An act to provide for assessing property at its true value, and for levying and collecting taxes thereon," approved February fourteenth, eighteen hundred and fifty-three, and all acts and parts of acts amending said act; also, an act entitled "An act to provide for the collection and return of taxes by township treasurers, in newly organized counties, in certain cases," approved January second, eighteen hundred and sixty-one; also, an act entitled "An act to authorize the Auditor General to execute second tax deeds, in certain cases," approved March twelfth, eighteen hundred and

sixty-one; also, an act entitled "An act to authorize the Auditor General to refund money paid for taxes, and on tax sales, in certain cases," approved March eighteenth, eighteen hundred and sixty-three; also, an act amending said last-named act, approved March twenty-first, eighteen hundred and sixty-five; also, an act entitled "An act relative to extending the time for the collection of taxes," approved March eighteenth, eighteen hundred and sixty-five; also, an act entitled "An act to provide for the recovery of taxes paid on real estate, by persons claiming title thereto, in certain cases," approved March twentieth, eighteen hundred and sixty-five; also, an act to provide for the taxation of improvements upon homestead lands, as personal property, approved March twenty-first, eighteen hundred and sixty-seven, and all acts amending any and all of said acts, are hereby repealed: *Provided*, That the repeal of acts mentioned in this act shall not affect any act done, sale made, or right acquired or established previous to the time such repeal shall take effect.

SEC. 168. This act shall take immediate effect.

Approved April 6, 1869.

Proceedings
in suit to
quiet title.

Who may be
made de-
fendants, etc

Proviso.

Acts re-
pealed.

SEC. 166. Any person holding any deed of lands, executed by the Auditor General for the non-payment of taxes, may commence a suit in the circuit court in chancery, of the county where such lands lie, to quiet his title thereto, without taking possession of such lands; and all parties who have or claim to have, or appear of record in the register's office of the county where such land is situated to have, any interest in such land, may be made defendants in such suit; and no outstanding unrecorded deed, mortgage, or claim shall be of any effect as against the title or right of the complainant, as fixed and declared by the decree made in such cause; and if, upon hearing of such cause, it shall appear that the complainant's title was invalid for any cause not enumerated in section one hundred and sixty-four of this act, such suit shall not be dismissed by the court, but the court shall ascertain the amount due to the complainant, for principal, and interest to be computed at twenty-five per cent per annum, and shall decree the payment thereof within a reasonable time, by the owner of such land, and in default thereof shall direct that such land be sold therefor, and that the equity and right of redemption of all defendants in such suit, and all persons claiming under them, shall be forever foreclosed: *Provided*, That the proceedings in such cases shall be conducted in the same manner, as near as may be, in conformity with practice in case of foreclosure of mortgages.

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SEC. 168. This act shall take immediate effect.

Approved April 6, 1869.

MANNER OF ATTACHING UNORGANIZED COUNTIES.

ACT NO. 178, LAWS OF 1861.

AN ACT to regulate the manner of attaching unorganized territory to organized counties, for judicial and municipal purposes.

Unorganized
county
attached to
organized
county
deemed at-
tached to
county town.

When town-
ship to be
organized
therefrom.

Tax where
expended.

SECTION 1. *The People of the State of Michigan enact*, That in all cases where any unorganized county has been, or may be hereafter, attached to any organized county of this State for judicial or municipal purposes, the same shall be deemed to be, and hereby is, attached to the county town of such organized county, or to the township in which the county seat may be located, unless the board of supervisors of such county shall otherwise direct: *Provided*, That whenever it shall appear to the board of supervisors of such organized county, by petition or otherwise, that such attached territory shall contain at least twelve resident legal voters, it shall be the duty of said board to set off and organize the attached territory into a separate township, and such township so formed and set off shall continue to be attached to such organized county, for the same purpose as before the same was thus organized; *And provided further*, That all taxes levied in said unorganized county, so attached, for other than for State or county purposes, shall be expended within the limits of such unorganized territory.

Approved March 15, 1861.

AN ACT TO PROVIDE FOR A STATE BOARD OF EQUALIZATION.

ACT NO. 106, LAWS OF 1851, AS AMENDED IN 1871.

SECTION 1. *The People of the State of Michigan enact*, That there shall be a State Board of Equalization, to consist of the Lieutenant Governor, Auditor General, Secretary of State, State Treasurer, and Commissioner of the Land Office, whose duty it shall be, in the year eighteen hundred and fifty-one, and every fifth year thereafter, to equalize the assessments on all taxable property in the State, except that paying specific taxes, as hereinafter provided.

SEC. 2. It shall be the duty of the board to meet at the Capitol in the village of Lansing, on the third Monday of August, and the persons composing it shall organize by choosing one of their number chairman, and the deputy Auditor General, or one of the clerks in the office of the Auditor General, shall act as secretary, who shall keep a record of the proceedings, which shall be certified by said chairman and secretary, and filed in the office of the Auditor General.

SEC. 3. The several persons constituting the board as herein provided, before entering upon the duties of their office, shall each take and subscribe the constitutional oath of office, before some person authorized to administer oaths; which oaths shall be filed and preserved with the proceedings of the board.

SEC. 4. After said board shall have been organized, they shall proceed to examine the tabular statements of the board of supervisors of each county, provided for in the eighth section of this act, and to hear the representatives from the several boards of supervisors as hereinafter provided; and

Assess-
ments rela-
tively un-
equal, how
equalized.

they shall determine whether the relative valuation between the several counties is equal and uniform, according to location, soil, improvements, production, and manufactories; and also whether the personal estate of the several counties has been uniformly estimated, according to the best information which can be derived from the statistics of the State, or from any other source. If, after such examination, such assessment shall be deemed relatively unequal, they shall equalize the same, by adding to or deducting from the aggregate valuation of taxable real and personal estate in such county or counties, such percentage as will produce relative, equal, and uniform valuations between the several counties in the State; and the percentage added to or deducted from the valuations in each county, shall be entered upon their records; and the valuations of the several counties, as equalized, shall be certified and signed by the chairman and secretary of the board, and filed in the office of the Auditor General, and shall be the basis for apportioning all State taxes until another equalization shall be made.

Duty of
Auditor
General and
county
treasurer.

SEC. 5. It shall be the duty of the Auditor General, as soon as may be after the determination of the State Board of Equalization shall be filed in his office, as provided in the preceding section, to send a certified transcript of the same to the treasurer of each county, who shall cause the same to be published in one or more papers in the county.

Board of
supervisors
to equalize
assessments.

SEC. 6. A meeting of the Board of Supervisors for the year eighteen hundred and fifty-one shall be held on the second Monday of June, and on the second Monday of June every fifth year thereafter; and when convened, the board shall proceed to equalize the assessment rolls in the same manner as is provided in chapter twenty of the revised statutes of eighteen hundred and forty-six; and each of said supervisors shall add up the columns of their respective rolls, enumerating the number of acres of land, and the value of the real estate and

personal property, so assessed, so as to show the aggregate of each.

SEC. 7. The Board of Equalizers shall hear any evidence which may be laid before them by any person appointed by any board of supervisors, and any representation made by such person in behalf of any county. Board may hear evidence.

SEC. 8. It shall be the duty of the clerk of each board of supervisors to make out a tabular statement, from the aggregate of the several assessment rolls, of the number of acres of land, and the value of the real estate and personal property, in each township and ward, as assessed, and also the aggregate valuation of the real estate of each roll as equalized, and make a certified copy thereof, signed by the chairman and clerk, and transmit the same to the Auditor General, on or before the second Monday of July following, who shall lay the same before the State Board of Equalization, when organized: *Provided*, Clerk of board of supervisors to make out tabular statement for Auditor General. Proviso. That such statement and copy shall not embrace any property paying specific taxes.

SEC. 9. Any three members of the board shall constitute a quorum for the transaction of business. The Lieutenant Governor shall receive three dollars a day for actual attendance, and ten cents a mile for travel in going to and returning from the seat of government, the usual traveled route, to be paid out of the treasury, on the warrant of the Auditor General. Three to constitute quorum. Compensation of Lieut. Governor.

SEC. 10. This act shall take effect immediately.

TAXATION OF RAILROAD LANDS.

[SEE SECTION 73 OF AN ACT TO REVISE THE LAWS PROVIDING FOR
THE INCORPORATION OF RAILROAD COMPANIES.

APPROVED APRIL 18, 1871.]

* * * *Provided*, Only such lands granted to any railroad company shall be liable to local taxation as are or may be opposite to and coterminous with the constructed portion and portions of said roads respectively: *And provided further*, That no such lands shall be subject to taxation until after the expiration of three years from and after the first day of April, in the year of our Lord one thousand eight hundred and seventy-one, and until after three years from the date of the certificate showing that such lands have been earned by said railroad company, after which time said lands shall be taxed as other lands, except as hereinafter provided: *And provided further*, That the lands of the several land-grant railroad companies, opposite to and coterminous with their lines as now in operation, shall be subject to taxation in two years from said first day of April, in the year of our Lord one thousand eight hundred and seventy-one. * * *

**EXEMPTION OF LANDS ENTERED WITH WARRANTS ISSUED FOR
SERVICES IN THE WAR OF EIGHTEEN HUNDRED AND TWELVE.**

[SEE PAGE 40. COMPILED LAWS.]

* * * Bounty lands granted, or hereafter to be granted, for military services during the late war, shall, while they continue to be held by the patentees or their heirs, remain exempt from any tax laid by order or under the authority of the State, whether for State, county, township, or any other purpose, for the term of three years from and after the date of the patents respectively. * * *

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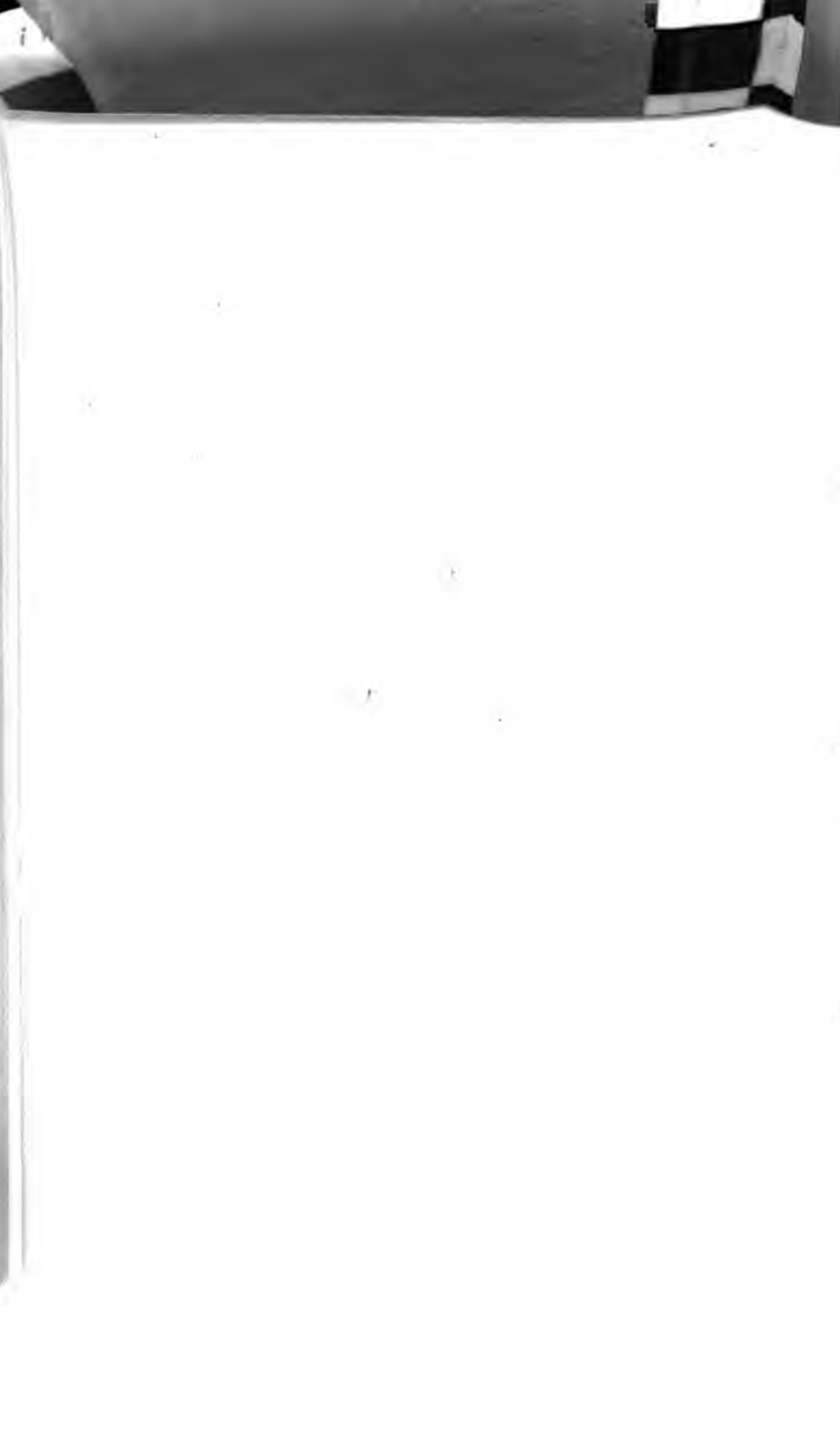
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1903

STATE OF MICHIGAN

GENERAL TAX LAW

1893

AS AMENDED IN 1895-1897-1899-1901-1903

BEING

ACT 206, PUBLIC ACTS OF 1893, AS AMENDED BY ACTS 25, 154, 162 AND
229, PUBLIC ACTS OF 1895; ACTS 206, 214, 224, 225, 229, 240 AND 261,
PUBLIC ACTS OF 1897; ACTS 31, 32, 83, 97, 107, 154, 169, 204, 215,
239, 262 AND 264, PUBLIC ACTS OF 1899; ACTS 39, 44, 46,
128, 129, 130, 141, 174 AND 193 P. A. 1901; AND
ACTS 28, 80, 83, 84, 235 AND 236 P. A. 1903.

WITH ANNOTATIONS AND CITATIONS FROM MICHIGAN REPORTS
AND OTHER SOURCES AND REFERENCES TO STATUTES
AFFECTING THE ADMINISTRATION OF THE
TAX LAW

COMPILED AND PUBLISHED UNDER THE SUPERVISION OF
PERRY F. POWERS, AUDITOR GENERAL



BY AUTHORITY

LANSING MICHIGAN
ROBERT SMITH PRINTING CO. STATE PRINTERS AND BINDERS
1902

PREFATORY.

This issue of the General Tax Law as amended is intended to include excerpts from all Michigan Supreme Court decisions that relate thereto or to similar provisions in the enactments that preceded it; reference to the principal statutes that are to be considered by assessing and collecting officers, including a synopsis of the provisions of general acts governing cities of the fourth class and villages, and of the school, drain and highway laws; extracts from some of the more directly applicable writings on taxation; a table of cases, authorities and statutes referred to herein, and some practical notes that may assist those who are charged with the execution of the law.

All references to sections of the General Tax Law refer to the notes to the sections as well as to the sections themselves, and may be intended to refer to either or both.

Cases having a direct bearing on the general laws or the particular statutes referred to herein, but not applicable to any question liable to arise under the general tax law, are not included herein. On the other hand many cases are cited that are not tax cases, but some enunciation therein has direct bearing on the general tax law.

In considering decisions quoted herein it will be remembered that they have been rendered under successive tax laws, and many which will very generally be recognized as affecting the principles involved in the present law should not be considered, as having direct and complete application to the sections where they are found. The earlier decisions held taxes and sales void for many irregularities that would void neither taxes nor sales under the policy of the present law; yet these same irregularities, if practiced now, might and frequently do occasion expensive litigation and the elimination of a very considerable part of the taxes assessed, either on the hearing of the Auditor General's petition for decree of sale, or in actions brought earlier. For this reason, while it should not be considered that tax sales under the present law can be set aside for defects or irregularities that do not prejudice property rights, yet it is as important that the letter and spirit of the law should be carefully observed as it was when every minor departure from the exact performance of the letter of the law might be made the subject of contest, even years after the sale of the land.

All objections other than those that are jurisdictional are now foreclosed by the decree, and decisions holding otherwise will be found to have been rendered under laws in force prior to those of 1889 and 1893. This should be remembered in considering the cases quoted or referred to, and that non-jurisdictional objections cannot now be raised successfully after decree.

WHEN ACTS TOOK EFFECT.

Act 206 of 1893, approved June 1, 1893, was ordered to take effect June 12, 1893.

Act 25 of 1895 (amending Section 9), approved March 20, 1895, was given immediate effect.

Act 154 of 1895 (amending Sections 62, 71, 73, 74, 84, 87, 98, 106, 113, 120, 124, 127 and 135), approved May 18, 1895, took effect Aug. 30, 1895.

Act 162 of 1895 (amending Section 66), approved May 18, 1895, took effect Aug. 30, 1895.

Act 229 of 1895 (amending Sections 11 and 47), approved May 31, 1895, was given immediate effect.

Act 206 of 1897 (amending Section 108), approved May 29, 1897, took effect Aug. 29, 1897.

Act 214 of 1897 (amending Section 111), approved May 29, 1897, took effect Aug. 29, 1897.

Act 224 of 1897 (amending Section 87), approved May 29, 1897, took effect Aug. 29, 1897.

Act 225 of 1897 (amending Sections 54, 57, 61, 62, 63, 70, 71, 74, 78 and 79), approved May 29, 1897, was given immediate effect.

Act 229 of 1897 (adding Sections 140, 141, 142 and 143), approved June 2, 1897, took effect August 29, 1897.

Act 240 of 1897 (amending Section 131), approved June 2, 1897, took effect Aug. 29, 1897.

Act 261 of 1897 (amending Section 42), approved June 2, 1897, took effect Aug. 29, 1897.

Act 31 of 1899 (amending Section 66), approved April 6, 1899, was given immediate effect.

Act 32 of 1899 (amending Section 14), approved April 8, 1899, was given immediate effect.

Act 83 of 1899 (amending Section 87) approved May 25, 1899, was given immediate effect.

Act 97 of 1899 (amending Section 144), approved June 1, 1899, was given immediate effect.

Act 107 of 1899 (amending Sections 127, 128, 130, 131, and 133), approved June 9, 1899, was given immediate effect.

Act 154 of 1899 (amending Sections 21 and 22, and adding Sections 145, 146, 147, 148, 149, 150, 151, 152, 153, and 154), approved June 23, 1899, was given immediate effect.

Act 169 of 1899 (adding Sections 138 to 139), approved June 23, 1899, was given immediate effect.

Act 204 of 1899 (amending Sections 140 and 141), approved May 17, 1899, took effect September 23, 1899.

Act 215 of 1899 (amending Section 47), approved June 1, 1899, took effect September 23, 1899.

Act 239 of 1899 (amending Section 18), approved June 15, 1899, took effect September 23, 1899.

Act 262 of 1899 (amending Sections 24, 41, 59, 61, 62, 67, 70, 73, 74, 78, 84, 89, 98 and 102), approved June 23, 1899, took effect September 23, 1899.

Act 264 of 1899 (amending Section 66), approved June 23, 1899, took effect September 23, 1899.

Act 39 of 1901 (amending Section 133), approved April 4, 1901, took effect April 4, 1901.

Act 44 of 1901 (amending Section 7), approved April 8, 1901, took effect September 5, 1901.

Act 46 of 1901 (adding Sections 155, 156 and 157), approved April 8, 1901, took effect September 5, 1901.

Act 128 of 1901 (amending Section 143), approved May 16, 1901, took effect September 5, 1901.

Act 129 of 1901 (amending Section 28), approved May 16, 1901, took effect September 5, 1901.

Act 130 of 1901 (amending Section 53), approved May 16, 1901, took effect September 5, 1901.

Act 141 of 1901 (amending Section 131), approved May 17, 1901, given immediate effect.

Act 174 of 1901 (amending Sections 145 and 146), approved May 27, 1901, given immediate effect.

Act 193 of 1901 (amending Section 54), approved June 1, 1901, took effect September 5, 1901.

Act 28 of 1903 (amending Section 43), approved April 9, 1903, took effect September 17, 1903.

Act 80 of 1903 (amending Section 98), approved May 7, 1903, took effect September 17, 1903.

Act 83 of 1903 (amending Section 142), approved May 7, 1903, took effect September 17, 1903.

Act 84 of 1903 (amending Section 127), approved May 7, 1903, took effect September 17, 1903.

Act 235 of 1903 (amending Section 11), approved April 18, 1903, took effect September 17, 1903.

Act 236 of 1903 (amending Sections 140 and 141), approved June 18, 1903, took immediate effect.

MAXIMS.

The authority to tax being fixed by the statutes must be strictly pursued.—Case v. Dean, 16 M. 12.

Taxes and assessments must be laid on principles of justice and equality.—Clay v. Grand Rapids, 60 M. 451.

Taxation for private purposes is unlawful.—Butler v. Saginaw Supervisors, 26 M. 22; Clee v. Sanders, 74 M. 692.

Taxes cannot be levied to accumulate funds for the future.—Midland v. Roscommon, 39 M. 424.

In paying taxes the citizen contributes his just and ascertained share to the expenses of the government under which he lives.—Black on Tax Titles 3.

The state alone possesses the power to authorize the assessment and levy of taxes and to establish rules therefor. A local custom which is opposed to the general policy of the State on the subject to which it refers is not valid in law.—Tremble v. Crowell, 17 M. 493.

A tax cannot be collected if not authorized by written law.—Folkerts v. Power, 42 M. 283.

Without a valid assessment no subsequent step can have any color of validity.—Black on Tax Titles 89.

The assessor cannot legislate. He has to do solely with administering the law. As an officer of the county or of minor municipalities, he should remember that the county is responsible to the State for the regularity of taxes returned.—Auditor General v. Monroe Supervisors, 36 M. 71.

Every essential proceeding in a tax levy must be taken in conformity with the requirements of law, and must appear in some written and permanent form in the records of the bodies authorized to act upon them, a parol levy of taxes not being legally possible under our laws.—See Palmer v. Rich, 12 M. 414; Moser v. White, 29 M. 60; Mills v. Township of Richland, 72 M. 100, etc.

It is not sufficient that assessment in its various stages be regular in most things; it must be legal in all things.—See Tillotson v. Webber, 96 M. 144.

Statutes for the assessment and collection of taxes, as to what they require to be done for the protection of the tax payer, are mandatory and cannot be regarded as directory merely.—Clark v. Crane, 5 M. 151.

The provisions of the tax law must be strictly construed where a departure from them would prejudice the owner of the

property taxed.—Houghton County v. Auditor General, 41 M. 28.

Township officers cannot ignore common sense and ordinary experience in discharging their duties.—Medina v. Perkins, 48 M. 67.

It is sometimes matter for serious regret that a court is compelled to declare a sale for taxes invalid where apparently no great injustice has been suffered; but when the necessity arises it is commonly because tax officers persistently disregard the limitations which are imposed by express statutes upon their authority.—Silsbee v. Stockle, 44 M. 561.

Every taxpayer is assumed to know the usual course taken to enforce payment directly, or in case of a return of delinquent property.—Louden v. East Saginaw, 41 M. 18.

Every owner of land is held to know the law. He knows that his land is subject to taxation; that he must pay his fair share of the public revenue and that if he fails to do so proceedings will be taken under the law against his land. It is his duty, therefore, to watch the proceedings provided for by the statute for the foreclosure of the lien and interpose any objection he may have to the validity of the tax.—Cole v. Shelp, 98 M. 56.

The policy of the law is that parties shall pay legal taxes even though there may be some irregularity in demanding them, and that they shall complain to the courts of those errors only which may injure them.—Stockle v. Silsbee, 41 M. 615.

If parties interested in the land which is liable to taxation are diligent in attending to the duty imposed upon them by the law, no hardship will be done them.—Berkey v. Burchard, 5 Det. Leg. News 723.

Statutes are to be construed in the light of previous history and surrounding circumstances; and their language is not to be measured by mathematical rules merely, but is subject, in the nature of things, to numerous implied exceptions or qualifications.—Kennedy v. Gies, 25 M. 83.

The primary object of all interpretation of statutes is to ascertain the real intent of the legislature; and while this intent must be inferred from the language used, it is not the meaning of the particular words only in the abstract, or their strictly grammatical construction alone that is to govern, but they are to be applied to the subject matter and general scope and purpose of the whole act, and to be considered with some reference to the evil sought to be remedied, and in the light of other statutes in *pari materia*, as well as the principles of the common law.—Whipple v. Judge Saginaw Circuit, 26 M. 341.

Assessors cannot safely rely upon "saving clauses" and "curative provisions" in the tax law to protect them or the taxes assessed by them from the natural results of disregard of the requirements of the law. Such provisions are only applicable to irregularities.—Wright's Assessor's Manual 18.

GENERAL TAX LAW

OF THE

STATE OF MICHIGAN.

(Act 206, Public Acts of 1893, as amended by Acts 25, 154, 162 and 229 of 1895; Acts 206, 214, 224, 225, 229, 240 and 261 of 1897; Acts 31, 32, 83, 97, 107, 154, 169, 204, 215, 239, 262 and 264 of 1899; Acts 39, 44, 46, 128, 129, 130, 141, 174 and 193 of 1901; and Acts 28, 80, 83, 84, 235 and 236 of 1903.)

AN ACT to provide for the assessment of property and the levy and collection of taxes thereon, and for the collection of taxes heretofore and hereafter levied; making such taxes a lien on the lands taxed, establishing and continuing such lien, providing for the sale and conveyance of lands delinquent for taxes, and for the inspection and disposition of lands bid off to the State and not redeemed or purchased; and to repeal Act No. 200 of the Public Acts of 1891, and all other acts and parts of acts in anywise contravening any of the provisions of this act.

The one object of the act is to provide for collection of taxes and the multiple character of the title does not bring it within the prohibition of Sec. 20, Art. IV., Constitution.—See Auditor General v. Stiles, 83 M. 460. The construction of titles covers that which is directly or indirectly connected with the subjects named.—See *People v. Gadway*, 61 M. 290, cases cited 287. Not necessary to set out in title every means necessary to accomplish the end sought.—*Callaghan v. Chipman*, 59 M. 613. The purpose is accomplished when the law has but one general object fairly indicated in the title.—*People v. Mahaney*, 13 M. 481, 495; *People v. Hurlbut*, 24, M. 44; *Stockle v. Silsbee*, 41 M. 615; see also Auditor General v. Bay Co. Supervisors, 106 M. 662; and notes to Secs. 135 and 143. Omission of statement that object is also to punish violators does not render provisions thereof invalid.—*Insurance Co. v. Raymond*, 70 M. 485. The constitutional inhibition against double taxation applies only to double taxation by this State. Where a tax law is construed, it is never to be presumed that a legislature intended a double tax, if such conclusion can be reasonably avoided.—*Stroh v. City of Detroit*, 9 D. L. N. 228.

SECTION 1. (3824 C. L. '97.) *The People of the State of Michigan enact*, That all property, real and personal, within the jurisdiction of this State, not expressly exempted, shall be subject to taxation. Property subject to taxation.

The legislature shall provide an uniform rule of taxation, except on property paying specific taxes, and taxes shall be levied on such property as shall be prescribed by law.—Sec. 11, Art. XIV, Constitution. A tax within the meaning of Art. XIV. is a charge for public uses.

Jurisdiction is co-extensive with territory.—*People v. Tyler*, 7 M. 161, 219. Territory includes lakes and rivers within limits of State.—Id. 228-9. All property is within the taxing power unless designedly put beyond it by the sovereign power of the State.—*Robertson v. Commissioner State Land Office*, 44 M. 274.

For exemptions specified in this act see Secs. 7 and 9.

EXPRESSLY EXEMPTED BY OTHER ENACTMENTS: Military bounty land while held by patentees or their heirs for three years after date of patent.—Ordinance of 1836, C. L. '97, p. 66. Cannot be held to mean three years from location.—*People ex rel Throop v. Auditor General*, 9 M. 184; Indian allotment lands allotted under act of Feb. 28, 1887, as amended 1891.—Chap. 383, U. S. Stat. v. 24. Property of corporations exempt by reason of paying specific taxes.—See notes to Sub 8, Sec. 7; shares in building and loan associations inc. under Act 50 of 1887, and mortgages and other securities held by such association.—7590 C. L. '97 (does not include shares in similar associations of other states); property of agricultural societies inc. under Act 80 of 1855, when used solely for the purposes of their incorporation.—See 5954 C. L. '97; for limitations; also Sub. 9, Sec. 7; certain properties of musical societies inc. under Act 128 of 1857.—8257 C. L. '97; lands, etc., of rural cemetery associations inc. under Act 12 of 1869.—8399 e. s. C. L. '97; real property of hospitals or asylums inc. under Act 242 of 1863.—8288 e. s. C. L. '97; property not exceeding in value of \$100,000 of industrial and charitable schools inc. under Act 135 of 1867.—8280 e. s. C. L. '97; personal property of society of marksmen inc. under Act 33 of 1869.—7692 C. L. '97; property of incorporations for cultivation of art inc. under Act 3 of 1885.—8226 e. s. C. L. '97; homes for aged, etc., inc. under Act 52 of 1897.—8271 e. s. C. L. '97; property of women's auxiliary association of University of Michigan.—3980 C. L. '97; private burial grounds.—8417 C. L. '97.

OF REAL PROPERTY.

Real property
defined.

SEC. 2. (3825) For the purpose of taxation, real property shall include all lands within the State, and all buildings and fixtures thereon, and appurtenances thereto, except such as are expressly exempted by law.

"Lands" and "real estate" include all rights thereto and interests therein.—50 C. L. '97. Includes standing timber.—*Sovereign v. Ortman*, 47 M. 181; *Spalding v. Archibald*, 52 M. 365; *Williams v. Flood*, 63 M. 487. And unsevered crops.—*Coman v. Thompson*, 47 M. 22; *Knapp v. Wolverton*, 47 M. 292; *Preston v. Ryan*, 45 M. 174.

Standing timber is assessable as realty, being an interest in the land.—*Fletcher v. Township of Alcona*, 72 M. 18; *Williams v. Hyde*, 98 M. 152. But nursery stock is assessable as personal property.—See Sub. 14, Sec. 8.

Where land is owned by one person and buildings thereon by another the two are to be separately assessed.—*Cooley on Taxation*, 367. Private buildings on lands of the United States or this State are assessed as personal property.—Sub. 7, Sec. 14. So are buildings on leased lands.—Sub. 11, Sec. 8.

"Such as are expressly exempted by law" should be understood as meaning not merely "exempted" from taxation, but also such buildings and appurtenances as are expressly classified elsewhere in the general tax law as personal property.—Assessor's Manual 20. See Subs. 10, 11, 12, 14 and 16, Sec. 8. For real estate exemptions see Sec. 7 and notes to Sec. 2.

Riparian rights of owners of lands abutting on waters should be considered in the assessment of such lands and not assessed separately.—See cases cited in *Boom Co. v. Adams*, 44 M. 404. Water power should be assessed with the land on which the power is obtained as a part of the realty. So with mineral deposits or quarries and all that pertains to the land, consideration being given thereto in the determination of value.—See Sec. 27.

Real estate owned by railroads or union depot companies and not actually occupied in the exercise of their franchises is liable to taxation.—6277 C. L. '97. See also 3964-7.

Under provisions of this section the mooted question whether machinery in a building is a part of the realty is not, for the purposes of taxation, in issue.—Assessor's Manual 19.

Where double taxation results under a law not intended to impose a double tax, the act is not necessarily invalid by reason of double taxation; but where a law by its terms necessarily requires double taxation, the act must be so construed as to avoid double taxation or be declared invalid.—*Stroh v. City of Detroit*, 9 D. L. N. 228.

RIPARIAN RIGHTS: Any erection which can lawfully be made in the water within the limits of riparian rights belongs to the riparian estate.—*Ryan v. Brown*, 18 M. 196. Boundary between riparian rights is determined by extending a line from boundary at shore perpendicularly to the general course of the stream opposite that point.—*Clark v. Campan*, 19 M. 325. Riparian rights, unless expressly exempted, extend to the middle of the navigable channel, and cover any shallows or middle ground not shown in the government survey but lying between such channel and the shore.—*Fletcher v. Thunder Bay Boom Co.*, 51 M. 277. As to riparian rights in the Great Lakes, see *Lincoln v. Davis*, 63 M. 375. Title of riparian owner extends to the middle line of the inland waters.—*Webber v. F. & P. M. Boom Co.*, 62 M. 626; *Ice and Coal Co. v. Ice and Coal Co.*, 102 M. 227. Owner of fractional divisions made so by an inland lake owns the soil under the water of said lake which should be included within the subdivision if its lines were fully extended.—*Clute v. Fisher*, 65 M. 48. Where the government has surveyed its lands along bank of river and has sold and conveyed them by government subdivisions, patent conveys title to all islands lying between the meander lines and the middle thread of the river, unless previous to its issuance the government has surveyed such islands as government subdivisions or has expressly reserved them where not so surveyed.—*Butler v. Railway Co.*, 85 M. 246. Where the government does not meander an island or indicate an intention to set it apart, it passes as appurtenant to the grant of

the lands on the shore, and cannot at a subsequent time be surveyed and sold as an island.—*Cchurch v. Case*, 122 M. 554. Grantee of land bounded by a meandered river takes title to the middle thereof of the main channel of the stream and may maintain his right to a so called "island" lying between such channel and the main land, unless it appears that the government ever surveyed or treated the intervening land as an island.—*Gough v. Cogle*, 118 M. 307.

SEC. 3. (3826) Real property shall be assessed in the town-ship or place where situated, to the owner if known, and also to the occupant, if any; if the owner be not known, and there be an occupant, then to such occupant, and either or both shall be liable for the taxes on said property, and if there be no owner or occupant known, then as unknown. A trustee, guardian, executor, administrator, assignee or agent, having control or possession of real property, may be treated as the owner. The real property which belonged to a person deceased, not being in control of an executor or administrator, may be assessed to his heirs or devisees jointly, without naming them, until they shall have given notice of their respective names to the supervisor, and of the division of the state.

Where and to whom assessed.

Assessments should be to the owner if known. If occupied and owner is unknown then to the occupant, if any. If neither is known and only in such case, assessment should be as "unknown." The owner is the person having the legal title, and assessment should be to the true owner if he can be discovered. In determining ownership, assessors are not bound to go behind the records; and if title is in litigation, it is not for them to decide who is the owner.—*Black on Tax Titles*, 107. Land is properly assessed to one having title of record.—*Loud & Sons Lumber Co. v. Hagar*, 118 M. 452. If no one holds actual possession, the owner of the title has constructive possession.—*Ruggles v. Sands*, 40 M. 559. One in possession of land claiming it as his own, is bound to pay the taxes imposed upon it which become due during his possession.—*Dubois v. Campau*, 24 M. 360. Tenancy of any sort is a species of title.—*Van Doozer v. Dayton*, 45 M. 247. A life tenant should be assessed as owner during the continuance of life estate.—*Jenks v. Horton*, 96 M. 13; *Austin v. Hyndman*, 119 M. 615. It is the duty of tenants of lands for life to pay the taxes.—*Smith v. Blinbury*, 66 M. 319. Where life tenant fails to pay taxes, title passes to the purchaser under tax sale, and remainder-man's remedy is against owner of life estate.—*Watkins v. Green*, 101 M. 493.

Occupancy might consist of cultivation and use without actual residence or might be by tenant.—*Cummings v. State Treasurer*, 7 M. 366. To be an occupant it is not necessary that he should have his home upon the premises.—*Tweed v. Metcalf*, 4 M. 579. If a husband has the care and occupancy of the wife's land it may be assessed to him as occupant; but if they live apart and the husband has not the charge or possession of the land, it must be assessed to the wife.—*Black on Tax Titles*, 100. Payment of taxes in previous years under the same conditions may properly be considered in determining how person paying regarded his occupancy.—*Hood v. Judkins*, 61 M. 575.

Real estate held by a trustee, guardian, executor, administrator, assignee or agent should be assessed in his name as owner, but with the addition of the designation of his fiduciary capacity.—*Assessor's Manual* 22. See also *Black on Tax Titles*, 106. Assessment to estate by name is equivalent to assessment to heirs or devisees without naming them.—*Dickinson v. Reynolds*, 48 M. 159. The designations "heirs" and "devisees" or "legatees" should not be confounded. The words are not synonymous and assessment to "heirs" has been held invalid in cases where the property was given to devisees.—*Assessor's Manual* 22.

Land held by two or more tenants in common should be assessed to all jointly, or undivided interests to each severally.—See *Sec. 6*. An assessment of land in a township where it does not lie is void, although it was not assessed in the proper township.—*Taylor v. Youngs*, 48 M. 268.

A mortgage conveys no title to the mortgagee.—*Hogsett v. Ellis*, 17 M. 351; *Wagar v. Stone*, 36 M. 364. Assessment and subsequent proceedings to enforce payment of the taxes does not estop the State from afterwards claiming lands as escheated lands.—*Crane v. Reeder*, 25 M. 303.

One cannot avoid taxation by the conveyance of his land to a third party, where the object of the conveyance is simply to avoid taxation and not to make a sale in good faith to the party taking the conveyance.—*H. M. Loud & Sons Lumber Co. v. Elmer*, 123 M. 61.

See *Secs. 4, 5, 6, 7, 11, 24, 29, 39, 90*.

SEC. 4. (3827) All licensed homestead lands the fee of which is in the State, when the licensee is entitled to make final proof to obtain a patent for the same, shall be assessed and treated as real property. The interest in land of any per-

Homestead and part paid State lands.

son holding part paid certificates for the purchase of any State lands shall be assessed separate from other property. The assessment shall describe the land and shall state therein that the title is in the State. The taxes, if not paid to the township treasurer, shall be returned and collected as hereinafter provided.

The interest acquired under part paid certificate of purchase of State lands is part of the individual property of the purchaser and is to be assessed as personalty, but separate from the general valuation of his personal property, and in the town where the land lies.—Robertson v. Land Commissioner, 44 M. 274. See Attorney Genral v. A. P. Cook Co., 122 M. 453.

The fact that an interest in land located with script for which no patent has been issued, is assessed as real property and not as personal property will not avoid a tax paid, the owner having the right to appear before the board of review and ask that the assessment be changed from real property to personalty.—McKinnon v. Powers, Auditor General, 9 D. L. N. 177.

The provision of this section as to licensed homestead lands the fee of which is in the State is the same as the rule applied to lands homesteaded under United States statutes.

The county treasurer shall furnish lists of such lands and of the names of patentees and licensees to supervisors on or before April 10th.—Sec. 92.

See Sec. 132; also 1461 and 3974-6, C. L. '97.

**Corporation
realty.**

SEC. 5. (3828) The real property of a corporation shall be assessed to the name of the corporation as to an individual, if known, in the township or place where situated, or it may be assessed to the occupant or to any authorized agent if so requested of the supervisor.

A corporation whose property is taxable stands on the same footing as an individual under our taxing laws.—Graham v. St. Joseph, 67 M. 652.

**Undivided
interests.**

SEC. 6. (3829) Undivided interests in lands owned by tenants in common, not being co-partners, may be assessed to the owners thereof, if so requested, and in the discretion of the supervisor.

If so assessed the undivided interests assessed to each must be specified. In assessing undivided interests the acreage should be given entire. For instance, the acreage in assessing the undivided half of the N. $\frac{1}{2}$ of N. E. $\frac{1}{4}$ would be 80 acres, not 40.

Where purchasers of undivided half of wild timber lands under a contract silent as to possession and payment of taxes, lumber the land and receive half the benefits of the lumbering, they are liable for half of the taxes levied after the purchase.—Thompson v. Noble, 108 M. 26.

Husband and wife are not tenants in common of lands conveyed to them jointly.—Fisher v. Provin, 25 M. 347.

REAL ESTATE EXEMPTIONS.

SEC. 7. (3830) (Am. by Act 44, Laws 1901) The following real property shall be exempt from taxation:

First, All public property belonging to the United States;

Second, All public property belonging to the State of Michigan, except licensed homestead lands, part paid lands held under certificates, and lands purchased at tax sales. and still held by the State;

Third, Lands owned by any county, township, city, village or school district and buildings thereon, used for public purposes;

Fourth, Such real estate as shall be owned and occupied by library, benevolent, charitable, educational and scientific institutions, incorporated under the laws of this State, with the buildings and other property thereon, while occupied by

them solely for the purposes for which they were incorporated: *Provided*, That such exemption shall not apply to fraternal or secret societies, but all charitable homes of such societies shall be exempt;

Fifth, All houses of public worship, with the land on which they stand, the furniture therein and all rights in the pews, and also any parsonage owned by any religious society of this State and occupied as such;

Sixth, All lands used exclusively as burial grounds, and the rights of burial therein, and the tombs and monuments therein, while reserved and in use for that purpose: *Provided*, That the stock of any corporation owning such burial grounds shall not be exempt;

Seventh, The real and personal property of persons who, in the opinion of the supervisor and board of review, by reason of poverty, are unable to contribute toward the public charges;

Eighth, The real property of corporations exempt under the laws of this State, by reason of paying specific taxes in lieu of all other taxes for the support of the State: *Provided*, That tracks, right of way, depot grounds and buildings, machine shops, rolling stock, and all other property necessarily used in operating any railroad in this State belonging to any railroad company, shall henceforth remain exempt from taxation for any purpose, except that the same shall be subject to special assessments for local improvements in cities and villages, and all lands owned or claimed by any such railroad company not adjoining the tracks of such company, shall be subject to all taxes;

Ninth, Property owned exclusively by the State agricultural society, or any county or district agricultural society, and used by any such society exclusively for fair purposes;

Tenth, All land dedicated to the public and actually used as a park, and any monument ground or any armory belonging to any military organization, and not used for gain or any other purposes;

Eleventh, All lands with the buildings thereon owned by any post of the Grand Army of the Republic or Women's Relief Corps connected therewith when such lands and buildings are occupied and used by such post or Women's Relief Corps exclusively for the purposes for which they are organized.

Exemption ought to receive a strict construction.—Cooley on Taxation, 205. Statutes providing for exemption from taxation must be understood as exempting only as therein specified and not otherwise. There are a few questions upon which assessors should so carefully confine their acts to the strict letter or the unmistakable intent of the law as in the matter of exemptions. In *Johnston v. City of Oshkosh*, 27 N. W. Rep. 320, it was held when assessors omit property in good faith because they believe the legislature has enacted a law exempting such property, when it has not, it invalidates the assessment.

The language of the legislature in exempting from taxation is as much entitled to obedience as that imposing taxation.—*Home and Day School v. Detroit*, 76 M. 521. A construction will not be put upon a tax law which will enable a party for whom no purpose of exemption is expressed to escape taxation.—*Philadelphia v. Ridge Avenue Railroad Co.*, 102 Pa. St. 190. A homestead is not exempt from taxation or from sale for taxes.—10,368, C. L. '97.

Exemption from taxation does not exempt from municipal taxes or local assessments.—*Black on Tax Titles*, 64, 81. Exemption by charter of certain unplatted lands from taxation for fire department purposes must be regarded, but does not exempt from taxation for interest on water works bonds.—*Baldwin*

v. City of Hastings, 83 M. 639. Inferior municipalities (counties, townships, school districts, cities and villages) cannot make exemptions except expressly authorized by the State.—Black on Tax Titles, 80. Exemption of certain surveyed townships in a school district from a general school tax invalidates the levy.—Auditor General v. McArthur, 87 M. 457.

An agreement between a municipality and a corporation organized for the purpose of supplying the city with water, under which the city agreed to pay a portion of the taxes which might be assessed against the company made upon good consideration does not create an exemption from taxation.—Ludington Water Supply Co. v. City of Ludington, 119 M. 480; Alpena City Water Co. v. City of Alpena, 9 D. L. N. 141. Exemption from taxation of a property employed in a business upon which a State bounty is paid is in its nature and purpose only a bounty law and not a contract and may be repealed at any time.—East Saginaw Mfg. Co. v. City of East Saginaw, 19 M. 259.

SUB. 1. Real property of the United States is not subject to taxation until sale or other disposition so as to divest the government of its title.—Black on Tax Titles, 9. See 1150-2 C. L. '97.

Lands, the title to which still remains in the native Indians, or in the United States in trust for them, are not taxable by the State for any purpose.—Black on Tax Titles, 42. "Native Indian" synonymous with an Indian who is not a citizen or one holding tribal relations.—See Sub. 6, Sec. 9. Lands patented to a "not so competent" Indian under treaty prohibiting its alienation without the consent of the government is not subject to taxation.—Auditor General v. Williams, 94 M. 180. The equity of the purchaser of government land must be valid and complete before the land is taxable.—Black on Tax Titles, 37. But patent need not have actually issued.—See note to Sub. 2. The possessory interests which private individuals may hold in the public land of the United States for mining, agricultural or other purposes, is not subject to taxation by the State.—Black on Tax Titles, 40.

See notes to Sec. 1.

SUB. 2. The public property of the State includes the property of all public institutions supported by the State.—Auditor General v. Regents, 83 M. 467. See Mich. State Bank v. Hastings, Walker's Chan. Rep., 9. State lands are taxable as private property when the purchaser has become possessed of a perfect equitable title to the land though no patent is yet issued. But if any condition precedent remains to be fulfilled before the grantee becomes entitled to the fee, the land is not taxable to the purchaser as realty.—Assessor's Manual 26. For assessment of the interest in such lands see Sub. 10, Sec. 8.

Title of land encumbered is in the State.—Crane v. Reeder, 21 M. 24.

SUB. 3. But when not so used, but rented to private persons, such realty is subject to taxation.—Black on Tax Titles, 49. So also if neither rented nor used for public purposes. Such lands subject to local assessments for benefits only when legislative provision therefor is clear.

Property of county cannot be sold to enforce collection of sewer tax.—Big Rapids v. Supervisors, 99 M. 351. In Lansing v. Board of State Auditors, 111 M. 327, the provision of the city charter providing for assessment of State property for police and fire protection was held to be unconstitutional, not being expressed in the title to the act. Land owned by Board of Water Commissioners of Detroit held to be exempt though rented, the act creating the board expressly providing that all lands of the board should be exempt without exception.—Board of Water Commissioners v. Auditor General, 115 M. 547.

SUB. 4. Benevolent, charitable, educational or scientific institutions must be organized chiefly if not solely for one or more of these objects. To claim exemption under this Sub. it is not enough that one of these objects is of that character.—Attorney General v. Common Council, 113 M. 388.

Building owned by corporation organized under Act 536 of 1865 "for the purpose of free reading room and library," which was leased for club purposes, not exempt.—Auditor General v. Women's Temperance Association, 119 M. 430. Exemption of real property of libraries used and occupied by them for the purposes of the organization does not include tenements under the same roof.—Det. Y. M. S'cy. v. Mayor, 8 M. 172. The fact that the building is so constructed that the parts leased to third party cannot be separated from the residue by definite lines is no obstacle to a valuation of such parts for purposes of taxation, having due reference to the taxable value of the entire property.—Black on Tax Titles 60. See Sisters of Charity v. Detroit, 9 M. 94.

The term "Scientific Institution" means an institution for the advancement or promotion of knowledge. A corporation organized under Chap. 218-8140-56, C. L. '97, "to establish, maintain and conduct a seminary of learning," the actual business of which has been the maintenance of such a seminary, is not taxable for its realty occupied by its school buildings.—Home and Day School v. Detroit, 76 M. 521. This evidently brings all colleges incorporated under the laws of this State within the provisions of this section.

The property of an unincorporated scientific institution, the benefit of whose library, museum, etc., is restricted to members, is not exempt. A hospital is not excluded from the list of "charitable" institutions because persons of pecuniary ability are required to pay for what they receive, when not exacted as a means of gain.—Assessor's Manual 26.

INSTITUTIONS INCLUDED: Public art instit'n's inc. under Act 3 of 1885.—8226 C. L. '97. Associations for establishing scholarships in University of Michigan.—8157 e. s. C. L. '97. Libraries and lyceums incorporated under Chap. 53, R. S. '46.—8164 e. s. C. L. '97. Polytechnic associations inc. under Act 95, 1869.—8183 e. s. C. L. '97. Historical, biographical and geographical societies inc. under Act 156 of 1873.—8190 e. s. C. L. '97. Associations for intellectual, scientific, aesthetic, etc., culture, inc. under Act 79 of 1879.—8198

a. s. C. L. '97. Engineering societies inc. under Act 232 of 1887.—8244 e. s. C. L. '97. Benevolent societies inc. under Act 155 of 1897.—8258 e. s. C. L. '97. Charitable societies inc. under Act 20 of 1855.—8264 e. s. C. L. '97. Homes for aged, infirm or indigent inc. under Act 52 of 1897.—8271 e. s. C. L. '97. Hospital and asylums inc. under Act 242 of 1863.—8288 e. s. C. L. '97. Michigan State medical societies inc. under Act 160 of 1879.—7699 e. s. C. L. '97. Eclectic medical societies inc. under Act 58 of 1877.—7705 e. s. C. L. '97. Veterinary medical associations inc. under Act 56 of 1891.—7719 e. s. C. L. '97. Bar associations inc. under Act 107 of 1881.—7725 e. s. C. L. '97. Teachers' associations inc. under Act 117 of 1855.—7730 e. s. C. L. '97. Charitable societies inc. under Act 166 of 1899. Institutions of learning inc. under Act 390 of 1855.—8140 e. s. C. L. '97. See *Home and Day School v. Detroit*, 76 M. 521.

EXCEPTIONS: Property of industrial and charitable schools inc. under Act 135 of 1867 as amended by Act 50 of 1895 in excess of \$100,000.00 is not exempt.—8284 C. L. '97. Real property of corporations for literary and scientific purposes inc. under Act 160 of 1895 not exempt. Act repeals act of 1865.—8170 e. s. C. L. '97. Real property of musical societies inc. under Act 128 of 1857 not exempt except where corporation is composed entirely of women not for profit but solely for study of music and to advance musical knowledge, and only on condition that no rental is derived from the building and that the society give at least two free musical entertainments during each year.—8250-7 C. L. '97. Property of societies for study of literature inc. under Act 200 of 1897 is not exempt.—8181 C. L. 1897. Property of associations for encouragement of fine arts inc. under Act 233 of 1865 is not exempt.—8204 e. s. C. L. '97. Such properties of ecclesiastical bodies inc. under Act 209 of 1897.—8297 e. s. C. L. '97, as are exempt are particularly defined in Sub. 5.

SUB. 5. Exemption of house of public worship applies only to taxes imposed under the general system of taxation and does not extend to assessments for paving or other local improvements.—*Lefevre v. Mayor*, 2 M. 586. Such part of a building as is used exclusively for religious purposes may be exempt from taxation and the part not so used may be subject to taxation.—Black on Tax titles 73.

Funds in the hands of trustees of church for the purpose of being invested as a permanent fund, the interest of which alone is to be used for the support of worn out ministers, their widows and orphans, are subject to taxation.—Atty. Genl. Op. 1902, p. 75.

A church edifice which is no longer used as a place of public worship is not exempt. Churches owned by private persons and not by organized societies are not exempt; but the fact that the title to the church of an organized society is in the name of a trustee or trustees does not except it from exemption. Land owned by a church and not used for its purposes is not exempt, unless held with the purpose of building a church thereon. A diocesan residence is not exempt as a parsonage. A Young Men's Christian Association building is not exempt as a house of public worship.—Assessor's Manual 26-7.

SUB. 6. Improvements essential to the use and enjoyment of the land for the purposes of a cemetery are exempt. Land within the boundaries of a cemetery dedicated or acquired for burial purposes is exempt though not actually used therefor.—Black on Tax Titles, 75. But land owned by any burial ground association inc. under Act 87 of 1835.—8362 e. s. C. L. '97, and not being part of its burial grounds, is not exempt.—8397 e. s. C. L. '97. Old cemeteries are exempt where city or village ordinances prevent further interment.—Assessor's Manual 27.

SUB. 7. The exemptions must be determined by the board of review before certifying to the assessment rolls, and no general taxes on property so exempt should appear upon the tax roll.

SUB. 8. Includes plank road companies.—8560 and 6610 C. L. '97; river improvement co's.—6721 e. s. C. L. '97 (not 6750 e. s. or 6764 e. s.); railroad companies.—6277 C. L. '97, except such real estate as is not actually occupied in the operation of the road (see also 6321 C. L. '97); union depot companies inc. under Act 244 of 1881.—6376 C. L. '97; life insurance companies not incorporated under Michigan laws.—7205 C. L. '97 (other insurance companies paying specific taxes are not exempt thereby from taxation of their property within the State); telegraph, telephone and express companies, except such real estate as is owned and can be conveyed under the laws of this State and not actually occupied in the exercise of its franchises and not necessary in the proper operation of its business.—Act 179 of 1899 (see Attorney General v. Common Council, 113 M. 388). Does not include musical societies inc. under Act 128 of 1857. See 8257 C. L. '97. 3992 C. L. '97 superseded.

Section 14 of Act 39 of 1883—6802 C. L. '97, as amended by Act 231 of 1899, provides that corporations for constructing, etc., water courses may on or before the second Monday in April of any year, elect to pay a specific tax in lieu of all general taxes upon the lands upon which water course is located and which shall be appurtenant thereto and the improvements thereon.

Only such lands of a railroad company as are held and presently used for railroad purposes are exempt from taxation, and the exemption does not apply to lands that have been acquired with a view of future use by the company.—*Auditor General v. F. & P. M. R. R. Co.*, 119 M. 682.

Railroad land and buildings thereon belonging to the corporation which are leased to private person, company or firm for private business is liable to taxation even though by the terms of the lease the tenant is under obligations to perform certain services in his line of business for the railroad and to furnish a certain amount of freight annually for transportation over the railroad company's lines.—Black on Tax Titles 63. Land in railroad yards occu-

plied by lumber company but no rental paid held not subject to taxation, it being shown that the land is used constantly by the company in the exercise of its franchise.—Auditor General v. F. & P. M. R. R. Co., 114 M. 682. An elevator erected by a railroad or union depot company on its lands and owned by the corporation as a grain warehouse in connection with its general business is a necessary equipment and exempt from ordinary taxation.—Detroit U. R. D. & S. Co. v. Detroit, 88 M. 347. Railroad hotels for general accommodation are not exempt.—Black on Tax Titles 67. A toll house owned by a plank road company and the lot on which it stands, if owned by the company, although not actually within its right of way, is exempt from ordinary taxation while used solely as a toll house and residence for its keeper.—Plank Road Co. v. Detroit, 81 M. 562.

SUB. 9. Where the track and horse barns upon fair grounds are rented to horse trainers and breeders, the proportionate value of such realty so leased is subject to assessment.—Assessor's Manual 28. See also 5954 C. L. '97. Includes horticultural societies.—5963 C. L. '97, and pomological and kindred societies.—5983 C. L. '97.

SUB. 10. Armories owned by military companies are not exempt if rented for other purposes for a consideration, nor would such part of an armory building so owned as is used for other purposes, but the proportionate value of such leased portion of the building and of the land on which it stands would be assessable.—Assessor's Manual 28.

OF PERSONAL PROPERTY.

Personal
property
defined.

SEC. 8. (3831) For the purposes of taxation, personal property shall include:

Moneys.

1. All moneys;

Annuities,
royalties,
Goods, chat-
tels.

2. All annuities and royalties;

3. All goods, chattels and effects within the State;

Boats.

4. All ships, boats and vessels and their appurtenances belonging to inhabitants of this State, whether at home or abroad;

Goods situate
without State.

5. All goods, chattels and effects belonging to inhabitants of this State, situate without this State, except that property actually and permanently invested in business in another State shall not be included;

Credits.

6. All credits of every kind belonging to inhabitants of this State, over and above the amounts respectively owed by them whether such indebtedness is due from individuals or from corporations, public or private, and whether such debtors reside within or without the State;

Shares in
corporations.

7. All shares in corporations organized under the laws of this State, when the property of such corporations is not exempt, or is not taxable to itself; or when the personal property is not taxed;

Bank shares.

8. All shares in banks organized within this State, under the laws of this State or of the United States, at their cash value, after deducting the assessed value of real property owned by and assessed to such banks;

Shares in
foreign
corporations.
Interest in
public lands.

9. All shares in foreign corporations, except national banks, owned by citizens of this State;

10. All interests owned by individuals in lands, the fee of which is in this State or the United States, except as herein otherwise provided;

Improvements
on leased
lands.

11. All buildings and improvements situate upon leased lands, except where the value of the real property is also assessed to the lessee or owner of such buildings and improvements;

Public vaults.

12. Tombs or vaults built within any burial grounds, and kept for hire or rent, in whole or in part, and the stock of any

corporation or association owning any such tombs, vaults or burial grounds;

13. All other personal property not herein enumerated, and not especially exempted by law. Omnibus clause.

14. All nursery stock and trees while growing on any land or in preparation for replanting or in transit; Nursery stock.

15. All produce, seeds and grain on hand stored in warehouse or mill, and in transit, owned within this State; Produce.

16. The personal property of all gas and coke companies, natural gas companies, electric light companies, waterworks companies and hydraulic companies, to be assessed in the township, village or city where the principal works are located. Lighting and water companies.

The mains, pipes and wires of such companies laid in or along roads, lanes, streets or alleys shall be assessed as personal property in the township, village, or city where the same are laid or placed. The personal property of street railroad, plank road, cable or electric railroad or transportation companies, bridge companies, and all other companies not required to pay a specific tax to the State in lieu of all other taxes; shall be assessed in the township, village or city where its principal business office is situated, and the track, road or bridge of any such company shall be held to be personal property and may be assessed in the township, village, or city where the same is located, used or laid. Transportation, road and bridge companies.

SUB. 2. Annuities should be taxed according to personal value as found by the Northampton Mortality Table.—Att'y Gen'l Op. 1901, p. 126.

SUB. 3. Sec. 3969-73 C. L. '97 as to taxation of copper.

SUB. 4. A vessel of a non-resident or a foreign corporation does not become subject to the taxing power of the State by engaging in business therein.—*Roberts v. Charlevoix*, 60 M. 197; *Graham v. St. Joseph*, 67 M. 652.

SUB. 6. Authorizes tax on credits held by resident trustee for non-resident beneficiaries.—*Detroit v. Lewis*, 109 M. 155. "Credits" includes all bills and accounts receivable, deposits, mortgages, loans, etc.

Sec. 8, Sub. 6, does not apply to money in the hands of or under the control of the owner.—it would not be a credit. Indebtedness is only allowed as an offset against credits such as bills and accounts receivable.—Att'y Gen'l Op. 1899, p. 152.

Where contracts for the sale of standing timber and for the sale of lands transfer an equitable title to the vendee, the performance of the contract being secured by the retention of the legal title in the vendor, the payments secured by the contracts are taxable against the vendor as credits.—*City of Marquette v. Mich. Land & Iron Co.*, 9 D. L. N. 535.

Non-forfeitable and paid-up life insurance policies are not taxable. Money under the control of the person assessed is not a credit from which debts can be deducted.—Att'y Gen'l Op. 1900, p. 190.

Resident trustees holding credits for the benefit of non-residents, are within the terms of section 8, sub. 6, and section 14, sub. 6.—*City of Detroit v. Lewis*, 109 M. 163.

SUB. 7. Exemption of the corporate stock of a corporation is an exemption of its shares.—*Cooley on Taxation* 212. Intangible property like stock must always follow the domicile of the owner unless separated from it by positive law.—*Howell v. Cassopolis*, 35 M. 471.

In the construction of this section due consideration should be given to Section 11, which provides that all corporate property, except where some other provision is made by law, shall be assessed to the corporation, in the name of the corporation. See also Sec. 5 as to real property of corporations and note to Sec. 19.

If the property of a corporation is assessed to itself the shares of stock are not assessable to the individual holders thereof.—Attorney General Oren, March 19, 1900.

Shares assessable must be assessed at cash value. See 8549 C. L. '97 as to fraudulent transfer to avoid taxation. As to list of stockholders in certain corporations see 8587 C. L. '97.

Real estate of trust companies to be assessed to corporation and shares to be assessed at cash value after deducting value of real estate assessed to corporation as in case of banks.—6168 C. L. '97. Interest of shareholders in co-operative savings associations to be assessed to holders at residence in lieu of tax against associations.—7547 C. L. '97. Stock in stage company owned by other corporations to be deducted from stock of corporation owning and taxed only as capital of stage company.—6474 C. L. '97.

A library belonging to an individual is exempt from taxation.—Patterson v. Board of Review, 125 M. 126.

CORPORATIONS WHOSE PROPERTY IS TAXABLE TO THE CORPORATION BY PROVISIONS IN ACT OF INCORPORATION: Corporations for buying, etc., cattle, etc., Inc. under Act 198 of 1887.—6040 e. s. C. L. '97. Corporations for buying and selling brood animals Inc. under Act 100 of 1887.—6015 e. s. C. L. '97. Manufacturing companies Inc. under Act 232 of 1885.—7537 e. s. C. L. '97. Publishing companies Inc. under Act 97 of 1861.—7146 e. s. C. L. '97. Newspaper and book publishing associations Inc. under Act 97 of 1861.—7146 e. s. C. L. '97. Newspaper and book publishing associations Inc. under Act 290 of 1865.—7151 e. s. C. L. '97. Printing, publishing and book-making companies Inc. under Act 804 of 1887.—7156 e. s. C. L. '97. Bridge companies Inc. under Act 83 of 1851.—6629 e. s. C. L. '97; bridge with its appurtenances, gates and toll houses to be assessed to the company as personal property in the township in which tolls shall be received. Warehouse companies Inc. under Act 26 of 1867.—6886 e. s. C. L. '97. Land purchasing and improvement companies Inc. under Act 196 of 1899.—6868 e. s. C. L. '97. Canal and harbor companies Inc. under Act 233 of 1875 (distinguished from river improvement companies Inc. under Act 149 of 1869.—6721 e. s. C. L. '97, the latter paying specific taxes).—6696 e. s. C. L. '97. Rafting and booming companies Inc. under Act 16 of 1864.—6523 e. s. C. L. '97. Co-operative associations Inc. under Act 288 of 1865.—7465 e. s. C. L. '97. Summer home associations Inc. under Act 39 of 1889.—7639 e. s. C. L. '97. Suburban homesteads, villa park and summer resort associations Inc. under Act 69 of 1887.—7654 e. s. C. L. '97; but lots sold are assessable to owners.—7662 C. L. '97. Societies for study of literature etc., incorporated under Act 200 of 1897.—8178 e. s. C. L. '97. Temperance Volunteers Association.—7953 e. s. C. L. '97. Grand Council Royal and Select Masters.—7080 e. s. C. L. '97. White Shrine of Jerusalem.—7983 e. s. C. L. '97. Rathbone Sisters.—8010 e. s. C. L. '97. Real Estate of Lutheran Bund.—8135 e. s. C. L. '97. Stage companies Inc. under Act 29 of 1865.—8472 e. s. C. L. '97 (see note to Sub. 7.) Associations for the encouragement of the fine arts Inc. under Act 233 of 1865.—8204 e. s. C. L. '97. Musical societies Inc. under Act 128 of 1857.—8250 e. s. C. L. '97 (see note to Sub. 4, Sec. 7). Mutual provident association Inc. under Act 275 of 1880.—7555 e. s. C. L. '97. Real estate of society of marksmen Inc. under Act 73 of 1869.—7685 e. s. C. L. '97. Real estate of incorporated banks and trust companies.—6148 and 6168 C. L. '97. All mutual companies and associations not having shares of stock.

Corporate property may be assessed under this section where Section 3842 C. L. has failed.—Detroit Citizens Street Railway v. Common Council of Detroit, 125 M. 673.

SUB. 8. Bonds of the United States are not liable and any portion of the capital stock of a bank so invested is exempt; but this does not exempt shares in a national bank though the capital stock of the bank is invested in United States bonds. The cash value of the shares of stock in a bank may be determined when the stock is not regularly quoted on a stock exchange by dividing the sum of the paid up capital and the surplus by the number of shares. In assessing the shares there must be deducted from each its proportion of the cash value of the realty that has been assessed to the bank.

The shares of stock issued by a bank include in their value all of the property of the bank, including its real estate, the value of which is to be deducted for separate taxation.—Lenawee Co. Savings Bank v. City of Adrian, 66 M. 273.

The real property of a bank is assessed to the bank, and the shares are assessed to the owners at their actual cash value, after deducting the real estate from the value of the capital stock. The shares are deemed personal property, and the term "stock" is not used in connection therewith.—Att'y Gen'l Op. 1902, p. 73.

Note.—Add together capital stock, surplus and undivided profits. From total subtract assessed value of real estate owned. Divide remainder by total number of shares and result will be the value per share to be assessed as personal property.

Co-partnership ownership of private bank to be assessed under Sec. 12 in township where bank is located.—Att'y Gen'l Op. 1900, p. 198.

SUB. 9. See Graham v. Township of Joseph, 67 M. 652.

Sec. 8 is not unconstitutional, as violating Const. Art. 14 requiring uniformity of taxation, in that it places a tax on stock in foreign corporations when held by residents, which is taxed as capital stock in the State where the corporation was organized, and exempts from taxation stock in domestic corporations, the capital stock of which is taxed in Michigan, since it was competent for the legislature to place domestic corporations and foreign corporations in different classes for the purpose of taxation.—Bacon v. Board of State Tax Commissioners, 126 M. 22.

The question whether the stock of a foreign corporation was taxed in the state where it was organized is immaterial, since the stock of such corporation in the hands of residents acquired a situs here for the purpose of taxation.—Idem.

The word "citizen" was evidently used here in its common meaning as synonymous with "inhabitant" or "resident."—Idem.

The taxation of "all shares in foreign corporations, except national banks owned by citizens of this state," does not apply to shares in foreign corporations where the property of such corporations is situated in and taxed by this state.—Stroh v. City of Detroit, 9 D. L. N. 228.

Shares of stock in foreign corporations owned by residents of this State are not subject to taxation if the real and personal property of the corporation is situated and taxed in this State.—Att'y Gen'l Op. 1902, p. 125.

SUB. 10. See Sub. 2, Sec. 4 and Sec. 7 and notes thereto.

SUB. 11. A building erected on leased land is no part of the realty before the lease expires.—*Osborn v. Potter*, 101 M. 300.

SUB. 13. The tax law does not in express terms refer to the taxation of mortgages; but the provisions of this Sub. and of Sub. 6 leave no excuse for failure to assess their value to the owner.—*Assessor's Manual* 31. The note or bond and the mortgage that secures it are to be considered as one property. *Attorney General v. Sanilac Supervisors*, 71 M. 16. Assessment of notes or mortgages should be at their true cash value and not at what they purport to secure.—*Attorney General v. Sanilac Supervisors*, 71 M. 16.

Abstract books are not subject to taxation.—*Loomis v. Jackson*, 9 D. L. N. 169.

Cars owned by individuals are not exempt from taxation because run over roads charged with specific taxes. Cars owned and used by a manufacturer are properly taxable with his stock in trade as appurtenances to the business.—*Comstock v. Grand Rapids*, 54 M. 641. Tram railways liable to taxation under general tax law.—*Detroit Street Railway Co. v. Guthard*, 51 M. 180.

Shares and mortgages of foreign building and loan association held by non-residents not taxable. All foreign corporation stock owned by residents of this State taxable.—*Att'y Gen'l Op.* 1900, p. 164.

The stock in trade and other appurtenances to the business of a liquor dealer are not exempt from taxation because of the payment of the liquor tax which partakes of the character of a license and is an exercise of the police power of the State. See *Sherlock v. Stuart*, 96 M. 193.

SUB. 16. Pipes of a water company laid on its own lands from pumping works to source of supply and to the city supplied, are a part of the realty and assessable accordingly and in the township where situated.—*Water Company v. Frenchtown*, 98 M. 431. The specific tax on pipe lines companies, 6504 C. L. '97, is not in lieu of other taxes.

A stock of groceries kept to furnish supplies for the crew and passengers on a line of steamboats owned and operated by a railroad company is not subject to taxation under Sec. 6277 C. L.—*Pere Marquette Railroad Co. v. City of Ludington*, 10 D. L. N. 231.

Detroit v. Donovan, 127 M. 604. Quotes *Detroit Citizens Street Railway Co. v. Detroit*, 125 M. 673. "The legislature has provided that the track shall be assessed as personal property. In our opinion this term should be construed to include not only the tracks, spikes, rails and switches, but also the right to use the bed upon which they are placed."

The rolling stock of a street railway company should be assessed as personal property in place where principal office is located. Its tracks to be assessed as personal property where they are laid down.—*Op. Att'y Gen'l* 1899, p. 151.

The engines, dynamos, boilers and similar appurtenances of the power house of street railway are (for the purpose of taxation) parts of the realty.—*Idem*.

The franchise of a street railway company, by which it acquires the right to use the streets of a municipality, should be treated as a part of the roadbed, and attaching to every part of the same, and must be treated as personal property.—*City of Detroit et al. v. Donovan*, 127 M. 604.

The rolling stock, tools, etc., of a street railway company are no part of its "track," but are personal property and therefore assessable where the railroad's principal office is situated.—*Idem*.

The general rules and manner of assessment only apply to these corporations to the extent that they do not conflict with the special provisions of this Sub.—*Opinion of Attorney General Oren*, March 28, 1900.

PERSONAL PROPERTY EXEMPTED.

SEC. 9. Am. Act 25 of 1895. (3832) The following personal property shall be exempted from taxation, to wit:

First, The personal property of benevolent, charitable, educational and scientific institutions, incorporated under the laws of this State: *Provided*, That such exemptions shall not apply to secret or fraternal societies, but the personal property of all charitable homes of such societies shall be exempt; Exemptions.
Charitable societies.

Second, Of all library associations, circulating libraries, libraries of reference, and reading rooms owned or supported by the public, and not used for gain; Public libraries.

Third, Of all posts of the grand army of the republic, sons of veterans, union veterans' unions, and of the women's relief corps connected therewith, of all young men's christian associations, and of women's christian temperance union associations, young people's christian unions, and other similar associations; G. A. R., Y. M. C. A., etc.

Fourth, Pensions receivable from the United States; Pensions.

Fifth, So much of the debts due or become due as shall Debts.

equal the amount of *bona fide* and unconditional debts by the person owing;

Indians.

Sixth, The property of Indians who are not citizens;

Library,
sewing machine, wearing
apparel, etc.

Seventh, The library, family pictures, school books, one sewing machine used and owned by each individual or family, and wearing apparel of every individual;

Furniture,
provisions and fuel.
Proviso.

Eighth, Household furniture, provisions and fuel to the value of five hundred dollars to each household: *Provided*, No person paying board shall be deemed a householder;

Mechanics'
tools.

Ninth, The working tools of any mechanic not to exceed in value the sum of one hundred dollars;

Fire
apparatus.

Tenth, Of all fire engines and other implements used in extinguishing fires, owned or used by any organized or independent fire company;

Young live
stock.

Eleventh, All mules, horses and cattle not over one year old, all sheep and swine not over six months old, and all domesticated birds;

Personal property
used in
business.

Twelfth, Personal property owned and used by any householder, in connection with his business of the value of two hundred dollars.

Articles imported from foreign countries and the duties paid thereon do not lose their character as imports so as to become subject to state taxation as a part of the mass of property of the State until they have either passed from the control of the importer, or been broken up by him from the original cases; and the State tax is void whether based upon them distinctly as imports or as constituting a part of the importer's property.—Cooley on Taxation 90.

Payment of a liquor tax, a local license, or similar exaction levied in pursuance of the police power of the State or minor municipalities does not exempt from taxation a stock of goods to the possession of which such payment is incident. See *Sherlock v. Stuart*, 96 M. 193. Exemption from execution or from any other process, penalty or forfeiture does not exempt from taxation. Exemption of specified personal property should not be considered as exempting any property not so specified, even when it is, in the opinion of the assessor, of similar character.—Assessor's Manual 32-3. Abstract books referring to land titles have no intrinsic value and not taxable.—*Dart v. Woodhouse*, 40 M. 399; *Perry v. Big Rapids*, 67 M. 140.

SUB. 1. ACTS INCLUDED: Act 135 of 1867, "Industrial and charitable schools," exemption limited to \$100,000.—8280 e. s. C. L. '97. Act 52 of 1897, "Homes for aged, infirm and indigent men or women."—8271 e. s. C. L. '97. Act 3 of 1885, "Public art institutions."—8226 e. s. C. L. '97. Act 188 of 1857, "Mechanics' associations."—7423 e. s. C. L. '97 (see also 7447 e. s.). Act 35 of 1897, "Colonial dames of American."—7863 e. s. C. L. '97. Act 160 of 1895 (Act 356 of 1865), "Corporations for literary and scientific purposes (exemption limited to \$100,000)."—8170 e. s. C. L. '97. Act 128 of 1857, "Musical societies," (see Sec. 8257).—8250 e. s. C. L. '97. Act 169 of 1879, "Michigan State medical society."—7699 C. L. '97. Act 58 of 1877, "Eclectic medical society."—7705 C. L. '97. Act 56 of 1891, "Veterinary medical society."—7719 C. L. '97. Act 107 of 1881, "Bar associations."—7725 C. L. '97. Act 117 of 1855, "Teachers associations."—7730 C. L. '97. Act 390 of 1855, "Institutions of learning."—8140 C. L. '97. Act 191 of 1893, "Associations for establishing scholarships in University of Michigan."—8157 C. L. '97. Chap. 53 R. S. 1846, Libraries and lyceums.—8164 C. L. '97. Act 95 of 1869, "Polytechnic association."—8183 C. L. '97. Act 156 of 1873, "Municipal, historical, biographical and geographical societies."—8190 C. L. '97. Act 79 of 1879, "Associations for intellectual, scientific, etc., culture."—8198 C. L. '97. Charitable societies inc. under Act 166 of 1899. Act 232 of 1887, "Engineering societies."—8244 C. L. '97. Act 155 of 1879, "Benevolent societies."—8258 C. L. '97. Act 20 of 1855, "Charitable societies."—8264 C. L. '97. Act 242 of 1863, "Hospitals and asylums."—8288 C. L. '97. Act 209 of 1897, "Ecclesiastical bodies."—8297 C. L. '97. See note to Sec. 7 under head of "Exceptions." Societies for study of literature inc. under Act 200 of 1897, not exempt.—8181 C. L. '97. 3081 C. L. '97, is superseded by this section.

SUB. 3. The character of any organization claiming exemption under this provision must be in fact similar to those named in this subdivision, which is not intended to exempt the property of organizations whose name merely is similar to those designated.

SUB. 4. Pensions actually received and which have become merged with other personal property in possession of the pensioner on the second Monday in April, whether invested or uninvested, are not exempt.—Assessor's Manual 32.

SUB. 5. Does not entitle taxpayer to a reduction on account of liability

under a lease for payment of rent for terms continuing into the future.—*Beecher v. Common Council*, 110 M. 456.

The reserve fund of a life insurance company, required by law for the protection of policy holders, represents a debt due or to become due within the meaning of the statute, and is not subject to taxation.—*Mich. Mutual Life Ins. Co. v. Detroit Common Council*, 10 D. L. N. 234. See deduction of reserve fund, Sec. 11.

Money under the control of the person assessed is not a credit from which debts can be deducted.—*Att'y Gen'l Op.* 1900, p. 190.

"Debts" is used in the first line of this Sub. as synonymous with the word "credits" as used elsewhere in the act.

SUB. 7. A private gallery of paintings cannot be considered as exempt under this Sub. "Family pictures" evidently mean family portraits.

A library belonging to an individual is exempt from taxation.—*Patterson v. Board of Review*, 125 M. 126.

SUB. 8. Musical instruments are not expressly included in the exemptions under this act. In *Kehl v. Dunn*, 102 M. 581, it was held that a piano was not "household goods, furniture or utensils" within the meaning of the statute exempting such property from execution.

Where two families live in the same house and are joint owners of the furniture, living together as one family, the exemption does not apply to each but both as a whole.—*Op. Att'y Gen'l* 1901, p. 123.

SUB. 9. Tools of a dentist come within the meaning of "mechanics' tools."—*Maxon v. Perrott*, 17 M. 332.

SUB. 12. There are no decisions that may be a direct guide to the interpretation of this Sub., but the following under Sub. 8 of Sec. 10322 C. L. '97, are worthy of notice: "The articles need not be absolutely necessary, but must be adapted to aid in carrying on the business and actually in use for that purpose.—*Kenyon v. Baker*, 16 M. 373. May include lumber owned by carpenter though intended to build house for self.—*Stewart v. Welton*, 32 M. 59; or seed wheat by farmer.—*Stillson v. Gibbs*, 46 M. 215." Whether each member of a firm may claim exemption of property owned and used by firm and whether stock in trade may be held exempt under this Sub. quere.

This Sub. does not apply to household furniture but to personal property used in business and if used by two partners both would not be entitled to exemption.—*Att'y Gen'l Op.* 1901, p. 123.

OF THE ASSESSMENT.

Sec. 10. (3833) An assessment of all the property in the State, liable to taxation, shall be made annually in the several townships, villages and cities thereof by the supervisors of the several townships and wards, or in villages and cities where provision is made in the acts of incorporation or charter for some other assessing officer, then by such assessing officer, as hereinafter provided.

Annual assessment by supervisors.

Supervisors, ex-officio assessors of townships.—2332 C. L. '97. The office of supervisor in cities may be abolished by the legislature at will and its functions conferred upon other municipal officers.—*Attorney General v. Gogshall*, 107 M. 181.

Duty of retiring public officer to deliver books and papers of his office to successor.—9843 e. s. C. L. '97.

Personal tax cannot be assessed against a non-resident; nor can property be taxed unless it has an actual situs within the State so as to be under the protection of its laws.—*Graham v. Township of St. Joseph*, 67 M. 652.

See Secs. 13, 14, 18 and 107.

SYNOPSIS OF ACT 215 OF 1895 PROVIDING FOR INCORPORATION OF CITIES OF THE FOURTH CLASS, 2956-3371 C. L. '97: Includes all cities having less than ten thousand population, 2956. Liabilities of village incorporated as city under this act deemed liabilities of the city and all taxes levied and uncollected at the time of the change to be collected as if such change had not been made, 2974. Election of treasurer, 2985; of supervisors, 2989. Appointment of assessor, 2990. City clerk to report amount of taxes to city treasurer, 3029. City treasurer—duties and compensation, 3033. Duties of supervisors in regard to taxes, 3048. Salary of treasurer and compensation of supervisors, 3060. Imposition of taxes or assessments requires two-thirds vote of aldermen elect, 3068. Licensing transient traders—proviso as to assessment of stock, 3107 Sub. 39. Assessment—for expense of abating nuisance, 3127; for sewers, 3161-6, 3169; for streets, 3174, 3178-9; for paving and improvements, 3180-2; for sidewalks, 3190. Special assessments, 3192-3, 3194, Am. Act 136 of 1899, 3195-3221. Appropriation of private property—assessment of benefits, Sec. 124, Am. Act 136 of 1899. (Entire Chap. 25 of Act 215 of 1895, amended by this Act.) Fiscal year—authority to raise taxes—funds—limit of taxation—apportionment—time of collection—voting taxes, etc., 3289-3317. Assessment by supervisor—proviso as to assessor, 3318-20. Equalization and review, 3321-2, Am. Act 136 of 1899, 3323. Certification of rolls, delivered to city clerk, 3324. Certification to county clerk of taxes to be raised, 3325. Apportionment and equalization by board of supervisors, 3326. Certification of special assessment to supervisors or assessor, 3327. Assessment roll—how made, 3328. Certification of taxes by supervisor to city clerk

—bond of city treasurer—delivery of roll, 3320. Warrant, 3330. Lien, 3331. Notice—collection fee—collection, 3332. Am. Act 136 of 1899. Enforcement of collection as in general tax law, 3333-7. School taxes, 3352-3, 3356.

Sec. 1, Chap. XXXI, providing for city assessor, is permissive merely and unless assessor is appointed as therein provided assessment will be made by a supervisor.—*Ostrander v. Board of Supervisors*, 111 M. 64.

CITIES GOVERNED BY SPECIAL CHARTER: Adrian, Alpena, Ann Arbor, Battle Creek, Bay City, Belding, Cadillac, Charlotte, Cheboygan, Clare, Coldwater, Detroit, Eaton Rapids, Flint, Gladstone, Grand Ledge, Grand Rapids, Holland, Hudson, Ionia, Ironwood, Ishpeming, Jackson, Kalamazoo, Lapeer, Lansing, Manistee, Marshall, Marquette, Mason, Menominee, Muskegon, Negaunee, North Muskegon, Port Huron, Saginaw, Sault Ste. Marie, Traverse City, Three Rivers, West Bay City, Ypsilanti.

SEC. 11. (Am. Act 235, Laws 1903) All corporate property, except where some other provision is made by law, shall be assessed to the corporation as to a natural person, in the name of the corporation. The place where its office is located in its articles of incorporation shall be deemed its residence: *Provided*, Its business is actually transacted at such office; but if it shall establish its principal office in any other place than the place named in its articles of incorporation, then the place where it transacts its principal business shall be deemed its residence for all the purposes of this act. If there be no principal office in this State, then at the place in this State where such corporation or agent transacts business: *Provided further*, That all the personal property of all corporations heretofore or hereafter organized under the laws of this State for the purpose of engaging in maritime commerce or navigation shall be assessed only in the city, village or township which is stated in their original articles of association or in any amendment thereof heretofore or hereafter made, to be the location of their general office for business. The property of corporations paying specific taxes shall be exempt, as to the property covered by such taxation, except when otherwise provided by law. All other property of such corporation shall be taxed under this act. In computing the taxable property of insurance companies organized under the laws of this State, the value of the real property on which a company pays taxes shall be deducted from its net assets above liabilities, as determined and shown by the last report of the Commissioner of Insurance, including in such liabilities the legal reserve required by the laws of this State, or the regulations of the insurance department, and the remainder shall be the personal property for which the company shall be assessed.

The provisions relative to the time, manner and place of assessment of taxes are mandatory; but owner cannot avoid assessment at actual residence by claiming residence elsewhere for the purpose of escaping taxation.—*Crittenden v. Mt. Clemens*, 86 M. 220. Statement in articles of association of a corporation of the place where its office for business is located is not conclusive against the State for the purposes of taxation. A corporation must have a local habitation and cannot fix a nominal domicile in one place while its actual domicile is in another and thus avoid taxation at the place of actual habitation.—*Detroit Transportation Company v. Assessors*, 91 M. 882. 1529-30 and 6985 C. L. '97 repealed by Act 139 of 1891. Mining properties are taxable under provisions of this act.

In *Michigan Dairy Company v. McKinlay*, 70 M. 574, corporate property was assessed in corporate name and to its manager. Held that alternative assessments harmed no one, taxes being paid except on personal estate, for which property of the corporation was sold.

The action of the Commissioner of Insurance in fixing the amount of taxable personal property of an insurance company is conclusive and binding on the assessing officer.—Insurance premiums paid in advance are a liability of the company.—*Mich. Mut. Life Ins. Co. v. Hartz*, 129 M. 104.

As to taxation of insurance companies this section does not violate Section 11, Article 14, of the Constitution, which provides that the legislature shall provide a uniform rule of taxation.—Idem.

Railroad lands and only such as are held and presently used for railroad purposes, are exempt and the exemption does not apply to lands which have been acquired with a view to a future use of them by the railroad company.—Auditor General v. F. & P. M. R. R. Co., 119 M. 682.

The reserve fund of an insurance company required under Act 229 of the Laws of 1895, is subject to taxation, and is not a debt due or to become due, and is not a "liability."—Detroit Fire and Marine Ins. Co. v. Hartz et al., 10 D. L. N. 23.

Note.—This cannot apply to amended section.

A private railroad owned and operated by a firm is real property, and should be assessed in the townships where situated, and not at the terminal point of the road.—Mitchell v. Lake Twp., 126 M. 367.

For the purpose of taxation, a corporation and its shareholders are not different persons, or the corporate property and shares different property.—Stroh v. City of Detroit, 9 D. L. N. 228.

Sec. 12. (3835) For the purpose of assessing property and collecting taxes, a copartnership shall be treated as an individual, and whenever the name of the owner or occupant of property is required to be entered upon the assessment roll, if such property is owned or occupied by a copartnership, the firm name shall be used. A copartnership shall be deemed to reside in the township where its business is principally carried on. Each partner shall be liable for the whole tax.

Copartnership property.

As to partnership lands, possession of surviving partner, see Merritt v. Dickey, 38 M. 41. Surviving partner has title to personal assets of the firm until affairs of partnership are settled.—9354 C. L. '97. Assessments should be in the firm name in case of the property of a firm one member of which has died, if before the partnership business is closed out. In such case, while the legal title rests in the surviving partner, it is not his absolutely, but held by him only for the purpose of closing the partnership estate.—Blodgett v. Muskegon, 60 M. 580. In Sage v. Burlingame, 74 M. 120, a co-partnership was held liable for taxes on lands belonging to one member of the firm and assessed to the firm by direction of its agents.

Partnership property alleged to be held in joint tenancy, is held to have been properly assessed to partnership.—Hubbard v. Winsor, 15 M. 146. The provision that partnership property shall be assessed in the firm name is directory and must be construed in connection with the provision that no tax shall be held invalid on account of having been assessed in the name of some other person than the owner.—Hill v. Graham, 72 M. 659.

See Sec. 99.

Private banks owned by a co-partnership to be assessed under Sec. 12 in the township where the bank is located.—Op. Att'y Gen'l 1900, p. 198.

Board of State Tax Commissioners has authority under Section 148 of the general tax law to examine the books, papers and accounts of private banks.—Att'y Gen'l Op. 1901, p. 139.

Sec. 13. (3836) All personal property, except as herein-after provided, shall be assessed to the owner in the township in which he is an inhabitant, on the second Monday of April, of the year for which the assessment is made.

Personal property, where assessed.

In Beecher v. Common Council of Detroit, 114 M. 228, relator claimed residence in Negaunee and voted there, but owned and occupied house in Detroit for two years and was assessed in latter city on personal property which was not assessed elsewhere. Held subject to assessment in Detroit. The holding was the same in the City of Detroit v. Macier, 117 M. 76, a case similar to the foregoing, and in which the court held that the finding of a jury that one assessed for taxes was a resident was conclusive.

Title to personal property in the possession of an officer at the time fixed for assessment, under attachment by creditors, remains in the owner and is legally assessed to him.—Township of Kalkaska v. Fletcher, 81 M. 446.

A mortgage must be taxed to the owner where he lives, not where the land mortgaged is.—Latrobe v. Baltimore, 19 M. 13.

Not intended by Sec. 13 that every assessment against personal property should be made on second Monday of April. This section provides that the person's residence on second Monday of April should be deemed to be his residence for the purpose of assessing his personal property.—Att'y Gen'l Op. 1900, p. 223.

Assessment of the personal property to the Ferguson Hardware Co. which belonged to the Ferguson Hardware Company, Ltd., gave no lien on the goods of the Ferguson Hardware Co., Ltd., which was a different company composed of different stockholders.—Chippewa Hardware Co. v. Atwood, 127 M. 338.

Where a taxpayer's assessment is upon personal property, not subject to taxation at the place where the property is taxed, the courts may review it.—
Nester v. Twp. of Baraga, 10 D. L. N. 317.
 See Sec. 10; also 3899-73 C. L. '97.

Exceptions.	SEC. 14. (3837) Am. Act 32 of 1899. The excepted cases referred to in the preceding section are as follows, viz.:
Non-residents' property.	1. All goods and chattels situate in some township other than where the owner resides shall be assessed in the township where situate, and not elsewhere, if the owner or person having control thereof hires or occupies a store, mill, dockyard, piling ground, place for sale of property, shop, office, mine, farm, place of storage, manufactory or warehouse therein, for use in connection with such goods and chattels: <i>Provided</i> , That the procuring any such property to be manufactured upon contract shall be deemed the hiring a mill or manufactory within the meaning of this section.
Proviso.	
Animals.	2. All animals kept throughout the year in some township other than where the owner resides shall be assessed to such owner, or the person in possession, in the township where kept.
Bank shares.	3. All shares in banks shall be assessed to their owners in the township, village or city where the bank is located: <i>Provided</i> , That the shares owned by a person residing in the county where the bank is located shall be assessed in the township or city where he resides.
Proviso.	
Property of minors, etc.	4. The personal property of minors under guardianship shall be assessed to the guardian in the township where he resides, and the personal property of every other person under guardianship shall be assessed to the guardian in the township where the ward resides.
Estates of deceased persons.	5. The personal property belonging to the estates of deceased persons, in the hands of executors or administrators, shall be assessed to them in the township and in the school district where the deceased last dwelt, until they shall give notice that the estate has been distributed to the parties interested. If such deceased was a non-resident of the State such property shall be assessed in the township where situated, to such executors or administrators, or to the person in possession.
Assessment to trustee, agent or pledgee.	6. Personal property under the control of a trustee or agent, whether a corporation or a natural person, may be assessed to such trustee or agent in the township where he resides, except as otherwise provided. Personal property mortgaged or pledged shall be deemed the property of the person in possession thereof and may be assessed to him.
Property on public lands.	7. All personal property of any person situate upon, also all buildings situate and being upon the lands of the United States, or of this State, shall be deemed personal property for the purposes of taxation and assessment, and shall be assessed as personal property, to the owner or occupant thereof, in the city, village or township in which such lands are situated, and such buildings shall be subject to sale for taxes in the same manner as herein provided for the sale of personal property: <i>Provided, however</i> , It shall not be necessary to remove any such buildings for the purpose of sale.
Proviso.	

8. Personal property of non-residents of the State, and all forest products owned by residents and non-residents, or estates of deceased persons, shall be assessed in the township or ward where the same may be, to the person having control of the premises, store, mill, dock, yard, piling ground, place of storage, or warehouse where such property is situated in such township, on the second Monday of April of the year when the assessment is made, except that where such property is in transit to some place within the State it shall be assessed in such place, except that where such property is in transit to some place without the State it shall be assessed at the place in this State nearest to the last boom or sorting gap of the stream in or bordering on this State in which said property will naturally be last floated during the transit thereof, and in case the transit of any such property is to be other than through any water course in or bordering on this State, then such assessment shall be made at the point where such property will naturally leave the State in the ordinary course of its transit; and such property so in transit to any place without the State shall be assessed to the owner or the person, persons or corporation in possession or control thereof, and in case such transit will pass said logs through the booms or sorting gaps, or into the places of storage of any person, persons or corporation operating upon any such stream, then such property may be assessed to such person, persons or corporation; and the person, persons or corporations so assessed for any such property belonging to a non-resident of this State shall be entitled to recover from the owner of such property, by a suit in attachment, garnishment or for money had and received, any amount which the person, persons or corporation so assessed is compelled to pay because of such assessment, and shall have a lien upon said property as security against loss or damage because of being so assessed for the property of another, and may retain possession of such property until such lien is satisfied: *Provided, further*, That any owner or person interested in said property may secure the release of the same from such lien by giving to the person, persons or corporations so assessed a bond in an amount double the probable tax to be assessed thereon, but not less than the sum of two hundred dollars, with two sufficient sureties, conditioned for the payment of such tax by said owner or person interested, and the saving of the person, persons or corporation assessed from payment thereof, and from costs, damages and expense on account of his non-payment, which bond as to amount and sufficiency of sureties shall be approved by the county clerk of the county in which the assessment is made.

Non-residents.
Forest products.

Forest products in transit.

Destination without the state.

Recovery of taxes paid.

Lien.

Proviso.

SUB. 1. See Township of Kalkaska v. Fletcher, 81 M. 446. Logs in camp are taxable there if there is an office and building for local business.—Ryerson v. Muskegon, 57 M. 383. See also Sub. 8.

Lumber owned by non-resident corporation and piled on dock lawfully assessed to said corporation as custodian of the dock, though part was claimed to have belonged to others. Not necessary that part claimed to have belonged to other party should have been assessed to corporation as agent.—Sec. 24 does not limit authority conferred upon assessing officer so as to require him to ascertain whether the property is held by such person as agent,

guardian or otherwise.—That one who has control of the dock for the purpose of placing lumber thereon has sold part of the lumber placed upon it to another person who is authorized to remove it does not take from the former the control of that part of the dock containing the lumber sold so as to prevent the assessment of such lumber to the seller.—*Spanish River Lumber Co. v. Bay City*, 113 M. 181.

Personal property belonging to a partnership is assessed in the locality where it is if the firm has its place of business there.—*Williams v. Saginaw*, 51 M. 120.

When a commodity is shipped to this State and stored, and orders are filled from the stock so stored from time to time, the property is liable to assessment for taxes and such assessment is not an interference with interstate commerce.—*Pioneer Fuel Co. v. John Molloy*, 9 D. L. N. 410.

SUB. 3. Real estate owned by banks to be assessed to the corporation.—6148 C. L. '97; and shares to be assessed at cash value as herein provided after deducting the value of the real estate assessed to the bank. See also *Howell v. Cassopolis*, 35 M. 471. A State statute providing that shares in banks shall be taxed to shareholders, but requiring the bank to pay the taxes (Sec. 46) and authorizing it to collect from shareholders does not tax the bank, but its shares and is valid.—*Black on Tax Titles* 8. Bank stock certified by county clerk to supervisor who has no right to assess it may be assessed to owner where legally assessable though not certified to supervisor.—*Crittenden v. Mt. Clemens*, 86 M. 220.

R. S. of U. S. Sec. 5219 authorizes the taxation of national bank stock in the hands of individuals in such manner and place as the State may determine, subject only to the conditions that the rate shall not exceed that of taxation on other moneyed capital of citizens and that non-residents of the State holding stock shall be taxed in the city or town where the bank is located.

A village charter authorizing the taxation of "all property real and personal within the limits of said village" not exempt from taxation for county and township purposes does not warrant the taxation by the village of the shares of shareholders who reside in another township in the same county.—*Howell v. Cassopolis*, 35 M. 471.

See Sec. 120.

SUB. 5. A legatee cannot be assessed for a legacy not yet due and in the hands of the executor.—*Herrick v. Big Rapids*, 53 M. 554. The assessment of a guardian upon an undisputed legacy to his minor ward is invalid.—*Bartow v. Big Rapids*, 56 M. 35. Supervisor who assesses land to estate after administration and discharge of executors, instead of to the devisees who are the owners of the land, fails to assess as contemplated by the statutes.—*Fowler v. Campbell*, 100 M. 398. Sub. does not include forest products. See Sub. 8.

See "Sult for taxes," notes to Sec. 47.

SUB. 6. Securities belonging to a resident of the State, but in custody of an agent living in a different town, if assessed to both, assessment to owner takes precedence.—*Curtis v. Richland*, 56 M. 478. See Sec. 8 and "Pawn brokers," Sec. 19.

An assessment for personal property to the person having control of the property makes such person personally responsible for the tax. Where personal property is assessed to an agent, property of the agent's principal cannot be seized where the property assessed is not the property seized and not the property of the principal.—*Pioneer Fuel Co. v. John Molloy*, 9 D. L. N. 410.

Resident trustees holding credits for the benefit of non-residents, are within the terms of Section 8, Sub. 6, and Section 14, Sub. 6.—*City of Detroit v. Lewis*, 109 M. 163.

Choses in action owned by a non-resident which are in the custody of an agent in this State are not subject to taxation. Subdivision 6 refers only to personal property the legal title of which is in the agent or trustee.—*Barra v. City of Grand Rapids*, 129 M. 572.

Mortgages owned by non-residents which are in the temporary custody of an agent in this State are not subject to taxation. Money collected by an agent or attorney for a non-resident client does not become taxable merely because it is in their hands on the date fixed for assessment.—*Village of Howell v. Gordon*, 127 M. 517.

SUB. 8. Standing trees are not forest products.—*Fletcher v. Township Alcona*, 72 M. 18. See also *Avery v. DeWitt*, 72 M. 25, and note to Sec. 2. A contract for the sale of lumber providing it should belong to the vendor until shipped, is properly assessed to vendor if before shipment.—*Hovey v. Gow*, 81 M. 314. Timber cut under a contract that buyer was to cut and remove within five years reverted to seller if left on land after expiration of the period.—*Gamble v. Gates*, 97 M. 465.

Logs piled on the right of way of a private railroad owned and used by a firm engaged in the lumber business are assessable in the township where they are located at the time provided by law for taking the assessment. Logs floating in a lake, so that at the time fixed by law for assessment they were in different townships, but were all intended for use at a certain saw mill, were properly assessed in the township where the mill was located.—*Mitchell v. Lake Twp.*, 126 M. 367.

The provision relative to payment by one in possession and his remedy has some similarity to one in the law of 1853.—See *Bears v. Cottrell*, 5 M. 251.

Logs, etc.,
in transit.

SEC. 15. (3838) All forest products in transit on the second Monday in April in each year and thereafter found in the waters or streams of this State or on the banks or shores of any lake, pond or stream of this State, when the same is not at the

place where it is to be manufactured, shall be held to have a place of destination at the sorting grounds of the rafting and driving agents or booming company nearest the mouth of the stream, unless the contrary shall be made to appear by the owner or party having the same in charge: *Provided*, That all Proviso. lumber, logs, timber, lath, pickets, shingles, posts, cordwood, tanbark, telegraph or telephone poles, or railroad ties, that may be piled or left in any yard, railroad reserve, or in any shed, shall not be deemed in transit, but shall be assessed to the person or corporation having control of the yard, railroad reserve, shed or place of storage where the same may be situated at the time provided by law for taking such assessment.

Logs and lumber piled along the railroad track awaiting the convenience of the owner or facilities for shipment are not in transit and are assessable where situated; and in such case the fact of the existence of contracts to load or that some event has transpired to prevent shipment or that owner intends to ship in the near future should have no weight.—*Maurer v. Cliff*, 94 M. 194. Logs piled during the winter on the ice of a lake close by a railroad awaiting facilities for shipment by rail are not in transit, but are assessable where situated.—*Plainfield township v. Sage*, 107 M. 19. Lumber piled on leased ground awaiting shipment properly assessed there.—*Hood v. Judkins*, 61 M. 575.

Lumber at railway station for transit merely is not taxable at that place as property in storage.—*Monroe v. Greenhoe*, 54 M. 9. Logs placed in river or lake for the purpose of shipment, but not for storage or for a definite time nor to await a market, and which were frozen in the ice upon the lake at the time of assessment were held to be in transit, it appearing that such transit was in progress when suspended by the close of the open season.—*Pardee v. Freesoll*, 74 M. 81. Where forest products are on banks or shore, and not at place of manufacture, destination is at sorting grounds unless owner makes contrary to appear.—*Elk Rapids Iron Co. v. Township of Helena*; Same v. Township of Milton, 117 M. 211.

Logs banked into a stream, and only waiting time of high water to be floated to destination or sorting grounds, and which are treated by the owners as in transit do not fall within the provision as to lumber and logs piled or left in yard, shed or any other place in the township where the same may be at the time for assessment.—*Corning v. Masonville*, 74 M. 177. Further as to forest products in transit, see *Boyce v. Cutter*, 70 M. 530.

An assessment made on property which is not assessable is void, as on logs in transit and so known to the assessor and assessable at place of destination.—*Brooks v. Township of Arenac*, 71 M. 231.

Logs piled on the right of way of a private railroad owned and used by a firm engaged in the lumber business are assessable in the township where they are located at the time provided by law for taking the assessment. Logs floating in a lake, so that at the time fixed by law for assessment they were in different townships but were all intended for use at a certain saw mill were properly assessed in the township where the mill was located.—*Mitchell v. Lake Twp.*, 126 M. 367.

See 5082 C. L. '97 relative to marking floating logs and timber. Logs bearing recorded mark shall be presumed to belong to party in whose name mark is recorded.—5085 C. L. '97.

SEC. 16. (3839) It shall be the duty of the supervisor of Supervisor to
view logs, etc. the township in which any such saw logs, timber, railroad ties, telegraph poles or tanbark, cut prior to the time of taking the annual assessment, may be banked or piled, or that may be in transit, to ascertain the amount of such property which may be or may have been in his township or assessment district at any time during the month of April in each year, liable to assessment, by actual view of the same, as far as practicable, and to fix the value of such property, and to assess the same to the owner thereof as herein provided.

See Secs. 14 and 15.

SEC. 17. (3840) No change of location or sale of any personal property, after the first day of May in any one year shall Location of
personal
property. affect the assessment made in such year. As between school

districts and road districts the location of personal property for taxation shall be determined by the same rules as between assessment districts: *Provided*, That whenever the owner or occupant shall reside upon contiguous tracts or parcels of land which lie in two or more assessment districts, then the personal property of such owner or occupant shall be assessed in the assessment district where such owner or occupant resides at the time the assessment is made.

ASSESSMENT, HOW MADE.

Duties of
assessor.

SEC. 18. (3841) Am. Act 239 of 1899. It shall be the duty of each supervisor or other assessing officer as soon as possible after entering upon the duties of his office, or as may be directed and required by the provisions of any acts of incorporation of any city or village making special provision for such assessment, to ascertain the taxable property of his assessing district, and the persons to whom it should be assessed and their residences. For this purpose he shall require every person of full age and sound mind who the supervisor or assessor believes has property which is not exempt from taxation, to make and subscribe to a true and correct written statement under oath, administered by such supervisor or assessing officer or other officer qualified to administer oaths under the laws of this State, of all the taxable property of such person, firm or corporation, whether owned by him or it or held for the use of another, and it shall be the duty of every such person, firm or corporation, to make such statement under the following form of oath, duly administered by the supervisor or assessing officer:

Shall require
sworn state-
ment.

Form of oath.

STATE OF MICHIGAN, }
County of } ss.

....., being duly sworn, deposes and says that the above is a full and true statement of all the taxable property owned by him liable to assessment in this assessing district.

(Signed)

Dated this day of
A. D. 18....

Subscribed and sworn to before me this day
of A. D. 18....

.....,
Supervisor (or assessor).

Proviso.

Provided, That any person having no property which is not exempt, if required to take an oath by the supervisor or assessor, may take the following oath:

STATE OF MICHIGAN, }
County of } ss.

No property.

....., being duly sworn, deposes
and says that he has no property or effects liable to taxation.

Dated this day of
A. D. 18....

(Signed)

Subscribed and sworn to before me this day
of A. D. 18....

.....,
Supervisor (or assessor).

The provision making it the duty of supervisors to require every person of full age and sound mind, etc., to make, subscribe and verify a statement of the taxable property owned by him or held by him for the use of another is mandatory.—Supervisor need not visit personally such persons, but may mail blank statement with notice to appear before him and verify the same.—Turner v. Circuit Judge, 95 M. 1.

Assessor cannot properly make an assessment against known facts.—Brooks v. Township of Arenac, 71 M. 231. Actual knowledge, however acquired, dispenses with the necessity for notice.—Jones v. Iron Co., 96 M. 98. Omission in statement does not justify the assessor in neglecting to assess property which he knows to have been omitted. It is the duty of the assessor to diligently inquire as to the taxable property within his jurisdiction.

Supervisor may require predecessor to deliver to him the books and papers belonging to the office.—Schneider v. McIvor, 58 M. 511.

One holding taxable property in more than one capacity should make a separate statement in each capacity. If he is guardian of an infant, trustee of a bankrupt estate, administrator of the estate of a deceased person and executor of another, he may be required to make a statement of his own property and also separate statements of the property held by him in his several fiduciary relations.—See Sec. 24.

When a village charter does not require an assessor to require a sworn statement of taxable property, a village tax assessed without assessor requiring such statement to be made is not invalidated thereby though the general tax law requires it for general assessment.—Lumber Co. v. Village of Oscoda, 97 M. 321.

Supervisors authorized to administer oath.—2337 C. L. '97; and may put any person under oath on any statement made to them. Authority of public officers to administer oaths in certain cases.—10396 C. L. '97.

See Secs. 100, 118, 150.

SEC. 19. (3842) In taking such assessment the supervisor or assessor shall use one of the following blank forms, as may be necessary:

Property of Bankers and Brokers.—The principal or accounting officer of every bank whose capital is not represented by shares of stock, and every private banker, broker or stock jobber shall make out and deliver to the assessor a statement which he shall verify by oath, showing:

- | | |
|---|-------------------------|
| 1. The amount of money on hand and in transit; | Money. |
| 2. The amount of funds in the hands of other bankers, brokers, or other persons, subject to draft; | Funds subject to draft. |
| 3. The amount of checks and other cash items not included in either of the preceding items; | Checks, etc. |
| 4. The amount of bills receivable, discounted or purchased, and other credits due or to become due; | Bills receivable. |
| 5. The amount of bonds and stocks of every kind except United States bonds, and shares of capital stock of corporations or companies held as an investment or in any way representing assets; | Bonds and stocks. |
| 6. All other property appertaining to said business other than real estate; | Other property. |

Assessors' blanks.

Bankers and brokers.

Deposits.	7. The amount of all deposits made with them by other parties;
Accounts payable.	8. The amount of all accounts payable, other than current deposit accounts;
Real estate.	9. The description and value of all real estate owned by him or them.
Manner of determining personalty.	The aggregate amounts of the seventh and eighth items shall be deducted from the aggregate amounts of the first, second, third and fourth items, and the remainder, if any, shall be assessed as moneys. The amount of the fifth item shall be assessed as stocks and bonds, and the sixth item shall be assessed the same as other similar property, and the assessor shall make a separate entry of each of these amounts (separate from the assessment of real estate) and the whole shall make up the aggregate personal assessment of such person, party or corporation.
Pawnbrokers.	<i>For Pawnbrokers.</i> —Every person or company engaged in the business of receiving property in pledge or as security for money or other consideration or thing advanced to pawnor or pledger, shall be held to be a pawnbroker and shall be required to make a statement and return under oath, reciting: 1. The value of all stock in trade actually owned by him or them and the true cash value thereof; 2. The amount and value of all property held in pawn for any pawnor, pledger or customer; 3. The aggregate amount of money consideration or value paid and advanced by such pawnbroker thereon. And the amount of the true cash value of all such property less the amount of consideration or value paid, shall be assessed as the property of such person or corporation.
Stock in trade.	
Pledges.	
Amount loaned.	
Value of pledges.	
Companies.	<i>Property of Companies.</i> —The president, secretary or principal accounting officer of any company or association, incorporated or unincorporated, except railroad, insurance and telegraph companies and banking corporations, the taxation of which is specifically provided for by law, shall make out and deliver to the assessor a sworn statement setting forth the following: 1. The name and location of the company, corporation or association; 2. The amount of capital stock authorized and the number of shares into which the same is divided; 3. The amount of capital actually paid in; 4. The market value of the stock, or if they have no market value then the actual value of the shares of stock; 5. The cash value of all its personal property, giving each kind separately as far as practicable; 6. The total of all <i>bona fide</i> indebtedness, except indebtedness for current expenses, excluding from such expenses all amounts paid for the purchase or betterment of said property; 7. The description and value of all real property. The amount of the seventh item shall be deducted from the amount of the fourth item, and the balance, if any, assessed as
Name, etc.	
Capital stock.	
Actual capital.	
Value of stock.	
Personal property.	
Indebtedness.	
Real property.	

the cash value of the personal estate. The amount of the sixth item shall be deducted from the amount of the fifth item, and the balance, if any, assessed as personal.

Vessel and Marine Property.—The president, secretary or principal owner of all navigation or transportation companies, and each and every owner of any vessel, steamboat, wharf boat, barge or water craft, shall make out and deliver to the assessor a sworn statement setting forth:

- | | |
|--|--------------------------|
| 1. The name of the company; | Company name. |
| 2. The location of its principal office; | Location. |
| 3. The amount of capital stock paid in; | Capital. |
| 4. The cash value of such stock; | Value of stock. |
| 5. The name of each and every boat or vessel owned by such company or individual, with its insurance rate and value; | Name and value of boats. |
| 6. The value of all other personal property used and belonging therewith or thereto; | Personal property. |
| 7. The actual <i>bona fide</i> indebtedness upon every such boat or vessel separately; | Indebtedness. |
| 8. The value of all real property owned by such company or person, with the description of the same, if in his assessing district; | Real estate. |
| 9. The value of all franchises, slips or docks owned or used by such company or person. | Franchises, docks, etc. |

The actual value of all such property after deducting the amount of the seventh item shall be deemed the assessable value of such property.

In case of the refusal of the president, secretary, principal accounting officer or owner hereinbefore mentioned to make the statement or statements hereinbefore recited and required, the prosecuting attorney shall cause such person, on complaint of such assessing officer, to appear forthwith before a circuit court commissioner, who is hereby authorized to issue summons therefor and to order its service and to compel the attendance of said officer or person in obedience to such summons, and to examine them under oath, and make such investigation at the expense of such bank, corporation or person as may enable such commissioner and assessing officer to obtain the information provided for in this section.

For General Purposes.—Every owner of property liable to taxation under the provisions of this act, being of full age and sound mind, who is a resident of this State, shall make out and deliver to the supervisor or assessor on demand, a sworn statement of all the property owned or held by him, as follows:

REAL PROPERTY.

An accurate description of each parcel of land, with the number of acres contained therein.

Realty.

PERSONAL PROPERTY—CREDITS.

- Annuities, royalties.** 1. All annuities and royalties;
- Credits.** 2. All credits of every kind owing to such person, whether such indebtedness is due from individuals or from corporations, public or private, and whether debtors reside within or without this State, including all deposits in banks or with other corporations or individuals; together with a statement of any part thereof that is secured by real estate mortgage on lands situated in some other State;
- Indebtedness.** 3. All *bona fide* indebtedness, owing by such person, giving an itemized statement in detail, how secured, and to whom owing, and the residence of such creditors and the amount due each, provided he desires to have the same deducted from his credits.

PERSONAL PROPERTY—CHATTELS.

- Bank shares.** 1. All shares in banks organized in this State under any law of this State or the United States, and their cash value after deducting the value of the real estate taxed to banks;
- Foreign stock.** 2. All shares in foreign corporations, except national banks, and their cash value;
- Shares in Michigan companies.** 3. All shares in other corporations organized under the laws of this State when the property of such corporation is not exempt, or is not taxable to itself, and their cash value;
- Moneys.** 4. All moneys;
- Jewelry.** 5. The value of all gold and silver plate, watches, diamonds and jewelry;
- Furniture.** 6. The value of all household furniture, over and above exemptions;
- Billiard tables, etc.** 7. The number and value of all billiard tables and other personal property used in connection therewith, and all other similar property owned or in possession by him;
- Patent rights.** 8. All patent rights and their value;
- Animals.** 9. The number and kinds of domestic animals not exempt, and their value;
- Carriages, etc.** 10. All carriages and other vehicles, and sleighs kept for pleasure or hire, and their value;
- Tools.** 11. All mechanical and agricultural implements and tools, and their value;
- Machinery.** 12. All machinery not affixed to real property, and its value;
- Boats.** 13. All ships, boats and vessels, whether at home or abroad, and their value;
- Merchandise.** 14. All merchandise and stock in trade, including grain in elevators, and its value;
- Logs, lumber, etc.** 15. All logs, timber, lumber, posts and ties, and their value, where the same is situate on the second Monday in April, as near as may be, and the distinctive marks thereon, if any, and place of destination in this State;
- Other property.** 16. All other goods, chattels and personal property not heretofore specifically mentioned, and their value, except property specifically exempt from taxation;

17. All goods and chattels which are exempt from taxation; **Exemptions.**
18. All moneys or other personal property held as assignee, attorney, executor, guardian or agent, liable to taxation under the laws of this State; **Property in trust.**
19. The number of dogs of all kinds over six months old; **Dogs.**
20. The value of all elevators, warehouses and improvements on lands, the title to which is vested in any railroad corporation, and the value of the contents. **Improvements on R. R. lands.**

All the forms are delivered to assessors by the county treasurer. It is the duty of the assessor to furnish every person required to make such statement with a blank, and to either call for it or notify such person or company to present it to him at a specified time and place.

BANKERS AND BROKERS: Does not relate to incorporated banks, and the special rules for assessment of the property and stock of incorporated banks would not apply to the assessment of property listed under this section.

PAWNBROKERS. Personal property in pawn, being assessable to the pawnbroker, is not to be assessed to the owner.

PROPERTY OF COMPANIES: See notes to Secs. 5, 8, 11.

Section 19 relates exclusively to the statement made by persons, firms or corporations. This section, under the head of "property of companies" provides that any company or association incorporated or unincorporated, except railroads, insurance and telegraph companies and banking corporations, etc., shall make out and deliver to the assessor a sworn statement setting forth certain facts. The paragraph following Sub. 7 is a general rule authorized by the legislature for the purpose of ascertaining the personal property of a corporation for purposes of taxation where no other method is expressly provided for in the general tax law; but where in the general tax law the legislature has expressly provided how the property of certain corporations shall be assessed, then in that case the special provision governs. Sec. 19 is but a small part of the general tax law and in placing a construction upon it we must consider the whole act in so far as its several sections bear upon the particular point under consideration, and no literal construction can be resorted to that in any way violates the clear intent of the legislature. Whenever it conflicts with or contravenes any of the *express* provisions of said act in regard to the manner of making the assessment, the provision stating of what personal property shall consist and the exemptions provided for, then and to the extent of such contravention, it must give way to the more important and express provisions of the statute. For the purposes of taxation Sec. 8 expressly states what personal property shall include, and Sec. 9 as distinctly designates the personal property exemption. These sections apply to corporate property as well as to that of individuals. Under Sub. 6 of Sec. 8, and Sub. 5 of Sec. 9, indebtedness of either an individual, firm or corporation *can only be deducted from credits*. If there are no credits shown in the statement of personal property there is nothing from which the debts can lawfully be deducted. When the personal property of a corporation has been ascertained by the assessing officer for purposes of taxation, pursuant to Sec. 19, or under the authority conferred upon him by Sec. 22, or both, he then assesses the personal property to the company or corporation as provided by Sec. 11, or according to the special provisions of the general tax law that may apply to the particular corporation assessed, and the real property is assessed as provided in Sec. 8.—*Opinion of Attorney General Oren, March 28, 1900.*

The determination of assessors and the board of review as to the cash value of the property assessed cannot be disturbed if regular, and not fraudulent.—*Detroit Citizens Street Ry Co. v. Common Council of Detroit, 125 M. 673.*

The special provision for the assessment of corporations in general, that the value of the stock, less the real estate, should be assessed, as well as the cash value of all personal property, less bona fide indebtedness, is unconstitutional and void, since it would result in double taxation if there were no real estate and no debts; and besides, the provision as to deducting debts is invalid, because it does not conform to the usual method of deducting debts from credits only.—*Idem.*

Taxation of shares of stock of a foreign corporation held by the residents of this State, the corporate property being situated and taxed in this State, is double taxation within the prohibition of the constitution requiring a uniform rule of taxation.—*Stroh v. City of Detroit, 9 D. L. N. 228.*

7124, 7142, 8508 and 8547 C. L. '87 providing for report as to stock, etc., of certain corporations are held by Attorney General to be superseded by this section.

VESSEL PROPERTY: See note to Sub. 4, Sec. 8.

GENERAL PURPOSES: PERSONAL PROPERTY—CREDITS—Sub. 8. It cannot be presumed that the assessor can have any personal knowledge of the amount of debts subject to deduction unless statement in furnished.—*First National Bank of St. Joseph v. Township of St. Joseph, 46 M. 528.*

SEC. 20. (3843) The supervisor or assessor shall not accept any of the statements herein above required as final or sufficient. **Imperfect statements.**

ficient when such statement is not properly subscribed and sworn to, but shall preserve the same as in other cases, and such statement may be used in making the assessment and as evidence in any proceeding which may arise respecting the making of the assessment of the party furnishing such statement.

Wilful
neglect.

SEC. 21. (3844) Am. Act 154 of 1899. In every case when any person or member of any firm or officer of any corporation shall wilfully neglect or refuse to make out and deliver a true and correct sworn statement, under oath, administered by the supervisor or other assessing officer or members of the Board of State Tax Commissioners herein provided for or other officers or shall answer falsely or refuse to answer questions concerning his property or property under his control, as required by this act, such person shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by imprisonment in the county jail not less than thirty days nor more than six months, or by fine not less than one hundred dollars nor more than one thousand dollars, or by both such fine and imprisonment in the discretion of the court. And it shall be the duty of the supervisor, assessing officer, and each member of the Board of State Tax Commissioners whenever he is satisfied that any person liable to make such assessing statement is justly liable to such penalty, to report the case to the prosecuting attorney of the county and make property complaint for such prosecution.

Duty of
assessor.

Assessor may
secure other
testimony.

SEC. 22. (3845) Am. Act 154 of 1899. If the supervisor or assessing officer or a member of the Board of State Tax Commissioners shall be satisfied that any statement so made is incorrect, or if, by reason of absence or other cause, said sworn statement cannot be obtained from the person, firm or corporation whose property is so assessed, said supervisor, assessing officer or any member of the Board of State Tax Commissioners is hereby authorized and required to examine, on oath, to be administered by any of them any other person or persons whom he may have good reason to believe, and does believe has knowledge of the amount or value of any property owned, held or controlled by such person so neglecting or refusing or omitting to be examined or to furnish such statement, and such supervisor or assessing officer is hereby authorized to set down and assess to such person, firm or corporation so entitled to be assessed, such amount of real and personal property as he may deem reasonable and just.

Statement to
be presented
to board of
review.

Final disposi-
tion of state-
ments.

SEC. 23. (3846) All the statements herein required to be made and received by the supervisor or assessor shall be filed by him, and shall be presented to the board of review hereinafter provided for, or provided for in any act incorporating any town, village or city, for the use of said board, and after the assessment is reviewed and completed by such board or review, all of the statements shall be deposited in the office of the township or city clerk, as the case may be, and shall be preserved until after the next assessment is made and completed, after which they may be destroyed upon the order of the town-

ship board or city or village council, but no such statement shall be used for any other purpose except the making of an assessment for taxes as herein provided, or for enforcing the provisions of this act, and only officer or person who shall make or allow to be made, wilfully or knowingly, any other or unlawful use of any such statement, shall be liable to the person making such statement for all damages resulting from such unauthorized or unlawful use of such statement.

Unlawful use
of state-
ment.

Where township clerk to keep records.—2338 C. L. '97. Supervisors shall keep all records and papers belonging to his office in a safe and suitable place, but not in any saloon, restaurant, public inn, hotel, place of public amusement, nor in any place where intoxicating liquors are kept or sold, or where gaming or plays of chance of any kind are carried on, or where they will be exposed to an unusual hazard from fire or theft.—2333 C. L. '97.

Statement of taxable property made for the purpose of assessment and taxation are not admissible as evidence to prove that property contained in the statements is undervalued at the suit of one to recover a tax paid under protest.—Bowman v. Montcalm Circuit Judge, 129 M. 608.

Statements of taxable property are not public records in the ordinary sense of the term.—Idem.

OF THE ASSESSMENT ROLL.

SEC. 24. (3847) Am. Act 262 of 1899. On or before the third Monday of May in each year, the supervisor or assessor shall make and complete an assessment roll, upon which he shall set down the name of every person liable to be taxed in his township or assessment district, with a full description of all the real property therein liable to be taxed. If the name of the owner or occupant of any such tract or parcel of real property is known, he shall enter the name of such owner or occupant, as in this act provided, opposite to the description thereof; in all other cases the real property described upon such roll shall be assessed as "owner unknown." All contiguous subdivisions of any section that are of equal value and are owned and occupied by one person, firm or corporation, and all unimproved lots in any block that are of equal value and are contiguous and owned and occupied by one person, firm or corporation shall be assessed as one parcel, unless demand in writing is made by the owner or occupant to have each subdivision of the section or each lot assessed separately; but failure to assess such contiguous parcels as entireties as herein provided shall not invalidate the assessment as made. Each description shall show as near as may be the number of acres contained in it, as determined by the supervisor. It shall not be necessary for the assessment roll to specify the quantity of land comprised in any town, city or village lot. The supervisor shall estimate, according to his best information and judgment, the true cash value of every parcel of real property and set the same down opposite such parcel. He shall also estimate the true cash value of all the personal property of each person, and set the same down opposite the name of such person. In determining the property to be assessed and in estimating such value, he shall not be found to follow the statements of any person, but shall exercise his best judgment. Property assessed to one other than the owner shall be assessed separate from his property and shall show in what capacity

Assessment
roll.

How made.

Contiguous
lands.

Acreage.

Valuation.

Property as-
sessed to
agent, etc

Partnership
property.

Tenants in
common, etc.

it is assessed to him, whether as agent, guardian or otherwise. Two or more persons not being co-partners, owning personal property in common, may each be assessed severally for his portion thereof. Undivided interests in lands owned by tenants in common, or joint tenants not being co-partners, may be assessed to the owners thereof.

ASSESSMENT ROLL: The listing of property is clerical, but the ascertaining and determining its value is judicial, requiring the judgment of the supervisor, under his oath of office, and cannot be dispensed with in making a valid assessment roll.—*Woodman v. Auditor General*, 52 M. 28. Supervisors cannot authorize another to copy the roll of a previous year in so far as real estate is concerned and attach and sign the statutory certificate, as the law requires the exercise of the supervisor's best judgment.—*Paldi v. Paldi*, 84 M. 346. The clerical work of making a roll may be done by any person acting under the direction of the supervisor or assessor; but the determination of what property shall be listed thereon must be the personal act of the assessor and must be performed after the exercise of due diligence by him in ascertaining the taxable property in his assessing district and the ownership and value thereof. The law leaves to the assessor no discretion as to the omission of property from the rolls. None is exempt except such as is especially exempted by the law, and all property not distinctly excepted must be assessed at its true cash value. Nor can the assessor right what he believes to be a wrong done the taxpayer by some previous assessment, by omitting or undervaluing his property.—*Assessor's Manual*, 50. Failure to list property in accordance with law is a wrong to all persons assessed, to the extent which it makes property assessed to them a larger proportion of the aggregate taxable property than it should have been; and in such case the levy would be jeopardized.—*Moss v. Cummings*, 44 M. 359.

Where by agreement between the supervisor and the board of review property was intentionally omitted from the assessment roll, an individual taxpayer is entitled to relief from the excessive amount of his tax.—*Solomon v. Township of Oscoda*, 77 M. 385. Where assessing officers have purposely in violation of law exempted property from taxation so the burden of taxation rests unequally, those who are wronged by this action (and all, except those whose property was insufficiently assessed, were wronged) are entitled to remedy against such wrong; certainly to such reduction of taxes as will make the burden no more than if favored property had been properly assessed. A wilful or intentional violation of law by omission of property from assessment, or by its deliberate under-valuation, will not be treated in equity as an accidental omission or an honest mistake in judgment.—*Walsh v. King*, 74 M. 350.

Each parcel must be assessed at its true cash value so as to protect each taxpayer.—*Auditor General v. Ayer*, 122 M. 136.

The assessment roll contains sufficient notice that one's property has been assessed.—*Hull v. Graham*, 72 M. 659.

NAME: Assignee vested with estate.—9650 C. L. '97. As to payment of debts by assignee (taxes included) see 9674 C. L. '97. Assessment in the name of other than the owner imputing ownership to the person so named, if made by the assessing officer knowingly for the purpose of defrauding or imposing an unjust tax on such person, might be assumed to be to his prejudice in the absence of a contrary showing.—*Bradley v. Bouchard*, 85 M. 18. A supervisor is not bound to take the statement of any person as to the ownership of land nor as to the person to whom it should be assessed, but may exercise his best judgment in determining these questions.—*Meade v. Haines*, 81 M. 261. See *H. M. Loud & Sons Lumber Co. v. Elmer Twp.*, 123 M. 61.

DESCRIPTION: See Sec. 25. As to assessment of large and remote areas of wild land, see *Sawyer-Goodman Co. v. Crystal Falls*, 56 M. 597.

VALUATION: See Sec. 116. There is a manifest tendency in many assessment districts to put upon the property of non-residents an undue proportion of the burden of taxation. By doing this the assessor very frequently lays the foundation for a contest which is sure to result either in the property assessed escaping taxation entirely, or in an expense attending the enforcement of payment which is equal to or in excess of the tax levied. By the ordinance of 1836 it was provided that "in no case shall non-resident proprietors be taxed higher than residents" (p. 66 C. L. '97). The enactment of this provision was one of the conditions upon which Michigan gained statehood. It has never been repealed, and never can be. More than this, it is a righteous enactment and the endeavor to evade its provision has cost the State dearly. It has also done serious injury to many localities by causing the withdrawal of investments and retarding development.—*Assessor's Manual* 10.

Assessing officers must inform themselves as far as possible of the true cash value of each parcel and must not assess non-residents differently from others.—*Sawyer-Goodman Co. v. Township of Crystal Falls*, 56 M. 597.

All assessments must be on property as its cash value.—Sec. 12, Art. XIV, Constitution. This does not apply to a tax on business or occupation.—*Walcott v. People*, 17 M. 68; *Kitson v. Mayor*, 26 M. 325; nor to assessments for local improvements.—*Woodbridge v. Detroit*, 8 M. 274; *Motz v. Detroit*, 18 M. 495. This constitutional provision is as much designed to prevent over-valuation as under-valuation.—*Avery v. East Saginaw*, 44 M. 687.

Assessment on a false valuation is a public wrong, and ought to be redressed in a public prosecution.—*Moss v. Cummings*, 44 M. 359. If the supervisor

of a township in making the assessment of property for taxation shall fraudulently and with the view to impose upon an individual more than his just proportion of the public burden of taxation, assess the property of such individual above its value and relatively above the other assessments on his roll, the party aggrieved may have an injunction to restrain the collection of the excessive tax.—Merrill v. Auditor General, 24 M. 170. Intentional under-assessment of a certain class of property is invalid whether it be by agreement or in disregard of official duty.—Auditor General v. Jenkinson, 90 M. 523.

Where assessing officers and board of review omit personal property under value and omit certain real estate intentionally, the object and purpose being to throw a larger taxation upon certain classes of property and to aid and benefit the working properties and the residence properties, thus discriminating and not placing the assessment upon the question of valuation at all, but attempting to carry out a scheme, the entire assessment is void as to all persons who present objections.—Auditor General v. Pendill, 123 M. 521.

The intentional omission from the tax roll of a township of \$80,000 of personal property taxable therein, and the assessment of the real estate of the township at one-fourth its cash value invalidates State and county taxes levied upon lands in other townships which were assessed at cash value when the equitable amount due from a county tax cannot be ascertained.—Auditor General v. Prescott, 94 M. 190.

It is indispensable to the validity of an assessment that it should clearly show the valuation of, and the amount of taxes charged against each parcel of land.—Black on Tax Titles, 117. The value of property is to be estimated with reference to the advantages or profits that can, or may be derived from it.—Black on Tax Titles, 95.

Petitions for the reductions of valuations of townships cannot be regarded by the supervisors in the assessment of taxes.—Attorney General v. Sanilac Supervisors, 42 M. 72.

"While, in relation to most of the duties of assessors, they involve so much of judgment and discretion, and partake so much of the nature and character of judicial proceedings, that their judgment, exercised in good faith and without malice, is conclusive in their favor, yet in relation to setting real estate in the list to the owners or the persons liable to pay taxes thereon, so far as relates to the persons to whom the land is to be set and the number of acres, the assessors are bound to act in good faith, and with common care, skill and prudence, and if they so act they are not liable for mistakes or inaccuracies, but if not, they are liable to the party injured for the consequences of such mistakes, oversights or inaccuracies."—Black on Tax Titles, 122. "A discretionary power cannot excuse an officer for refusing to exercise his discretion. His judgment is appealed to, not his resentment, his cupidity or his malice. He is the instrument of the law to accomplish a particular end through specified means; and when he purposely steps aside from his duty to inflict a wanton injury, the confidence reposed in him has not disarmed the law of the means of prevention. His judgment may indeed be final if he shall exercise it, but an arbitrary and capricious exertion of official authority, being without law, and done to defeat the purpose of the law, must, like all other wrongs, be subject to the law's correction."—Merrill v. Auditor General, 24 M. 170. But the assessor is both morally and legally bound to seek the fullest light upon his duties. "He who ignorantly does an injury shall knowingly make reparation."—Miller v. Aldrich, 31 M. 408. A public officer is liable to private individuals for injuries resulting to the latter from his failure to perform ministerial duties in which the latter have a special and direct interest. He is also liable for a failure to perform duties of a judicial nature, if he neglects them maliciously.—Raynesford v. Phelps, 43 M. 342. A supervisor, when acting as assessor, is a quasi judicial officer, and in the exercise of his judicial duties he cannot be held liable in a suit at law for errors he may have made.—Meade v. Haines, 81 M. 261. When the assessor acts in good faith and intelligently exercises his best judgment, the law protects him. An individual has no right of action against an assessor to impeach his assessment, except on the ground of fraud or malice.—Moss v. Cummings, 44 M. 360. But he cannot ignore common sense and ordinary experience in discharging his duties.—Medina v. Perkins, 48 M. 67. The assessor is not required to perform impossibilities.—Peninsula Iron Co. v. Crystal Falls, 60 M. 510. But he must use due diligence. See Secs. 14, 99, 130.

SEC. 25. (3848) The description of real property may be as follows, viz.: Description of realty.

1. If the land to be assessed be an entire section, it may be described by the number of the section, township and range; Sectional descriptions.

2. If the tract be the subdivision of a section authorized by the United States for the sale of public lands, it may be described by the designation of such subdivision, with the number of the section, township and range; Subdivisions.

3. If the tract be less or other than such subdivision, it may be described as a distinct part of such subdivision, or by designation of irregular parcels.

nation of the lot or other lands by which it is bounded, or in some way by which it may distinctly be known;

Land platted. 4. In case of land platted or laid out as a town, city or village, or as an addition to a town, city or village, the same may be described by reference to such plat and by the number of the lots and blocks thereof, whether such plat be recorded or not;

Adjoining lands. 5. When two or more parcels of land adjoin and are used and occupied together, they may be assessed by one valuation;

Described as known. 6. Lands may be designated by any description by which they may be known;

Abbreviations. 7. It shall be sufficient to describe the real property assessed upon any roll and in all other proceedings under this act, in the manner heretofore in use by initials, letters, abbreviations and figures.

SUB. 1. "Township" means surveyed township.—*Manistee Lumber Co. v. Township of Springfield*, 82 M. 277.

SUB. 2. "East $\frac{1}{4}$ " or "West $\frac{1}{4}$ " as used in government surveys have no reference to quantity, but fixes the dividing line equi-distant between boundaries.—*Jones v. Pashby*, 62 M. 614. So a " $\frac{1}{2}$ " containing more or less than a natural acreage (such as usually occur on the north and west boundaries of townships) should be described as "fractional $\frac{1}{2}$ ". In entering subdivisions of a section or subdivisions of a quarter-section commence at the N. E. $\frac{1}{4}$, then the N. W. $\frac{1}{4}$, then the S. W. $\frac{1}{4}$, ending with S. E. $\frac{1}{4}$.

W. fr. $\frac{1}{2}$ and S. W. fr. $\frac{1}{4}$. Sec. 18, if identical, are interchangeable descriptions.—*Vetterly v. McNeal*, 129 M. 507.

SUB. 3. Land described on government plats by number is not properly designated otherwise.—*King v. Potter*, 18 M. 134. Land described as bounded on designated side by a given county drain sufficiently described.—*Husted v. Willoughby*, 117 M. 56. Provision for description "by designation of the lands by which it is bounded" has reference to cases in which the tract is not known by name or number and in which such a description would be the most likely to attract attention of the person interested in the payment of the tax.—*Gilman v. Riopelle*, 18 M. 145. See also *Amberg v. Rogers*, 9 M. 332. A description of a part of given tracts must clearly define the specific and determinate parts intended. Such a description as "E. part of S. E. $\frac{1}{4}$ of N. W. $\frac{1}{4}$, etc. 10 acres" should never be used unless the 10 acres intended is the E. 10 acres having a regular west boundary, i. e., bounded by a line running due north and south. If the west boundary be irregular (as by a road or stream) it should be described, say as "that part of the S. E. $\frac{1}{4}$ of the N. W. $\frac{1}{4}$, etc., lying east of (here give the west boundary), 10 acres".

An assessment of real property for taxation as "w $\frac{3}{4}$ part of p. c. No. 331, five (5) cottages and barn (less lot deeded to John Barrow)" held not void for indefiniteness.—*Harts et al. v. City of Mackinac*, 9 D. L. N. 482.

An exception in a description of real property for taxation referring to a deed, presumes the deed to be of record and the description is not invalid. *Idem*.

Description of land in tax roll for D— township, as a given subdivision of Sec. 8, T. 6 R. 6, there being but one township 6, range 6, in such township, is sufficient, though there are four townships in the State numbered 6, range 6.—*Dumphy v. Auditor General*, 123 Mich. 354.

Where center twenty-five feet of lot was charged back as indefinite, a reassessment on definite description was invalid since the description in the first assessment was too indefinite to form the basis of a tax.—*Auditor General v. Smith*, 125 Mich. 576.

SUB. 4. Lots and blocks defined.—*Anderson v. Baughman*, 7 M. 76. *Burrows v. Gibson*, 42 M. 121; *Jackson v. Sloman*, 117 M. 126. See note Sub. 7. In making the assessment roll care should be taken to place each description under its proper heading. City or village property must be placed under its proper heading, particular attention being paid to the several subdivisions, each of which should be distinctly described. In townships the section number should be written opposite each description, and not omitted or indicated by ditto marks.

Lands situated in "Hoyt's plat of East Saginaw" held to be sufficiently described as in "Hoyt's plat, City of Saginaw," the two cities being consolidated.—*Wilkin v. Kelth*, 121 M. 66.

A tax deed describing property as "lots 163, 164 of section 33, village of P., according to the plat thereof," was indefinite and uncertain, in view of evidence that there were several lots on section 33 that were numbered, respectively, 163 and 164.—*Sleight v. Roe et ux.*, 125 M. 585.

May be by proper abutments, although the better description, if not the necessary one, is by reference to the plat and by the number of the lot and block as given on the plat, together with such other descriptive facts as may be practicable and essential for the purpose of identification.—*Burrows v. Gibson*, 42 Mich. 121.

Plats.—3872-89, C. L. '97.

SUB. 5. A dwelling house with the land and appurtenances occupied with

it, a warehouse so occupied, a farm or other parcel of real estate let to the same tenant by one and the same lease, parcels detached from each other and used and occupied for different purposes, may respectively be regarded as separate and distinct estates, to be distinctly valued and assessed.—*Shaw C. J.*, in *Hayden v. Foster*, 13 Pick. 492, 497. In the case of adjacent unimproved lands, assessment as one parcel of such land as was purchased by the owner as one parcel (if the entire be within the assessing district) is sufficient, though by the government survey it was divided. While lands may lawfully be divided into the lowest legal subdivisions, this should be avoided where contiguous lands are known to belong to one owner. Separate and distinct parcels must be assessed and valued separately, and omission to do so is not a mere irregularity. But parcels in two sections should not be assessed together, even though contiguous and owned and occupied by the same person. When several platted lots have been assessed as one description a decree against the same as one parcel is a determinative of the legality of the assessment. (Sec. 66 provides that the court may apportion the taxes; and Sec. 53 that a part owner may pay on his part.)—*Kneeland v. Hull*, 116 Mich. 55.

See Sec. 24.

SUB. 6. Descriptions do not identify of themselves but only furnish the means of identification.—*Wiley v. Snyder*, 34 M. 60. Falsity in description affects all subsequent proceedings. A tax sale of property that is misdescribed in the assessment roll will be wholly invalid.—*Black on Tax Titles*, 112. Descriptions must be so definite and certain as not to require extrinsic proof. The requirements as to description in tax proceedings are not only aimed at securing an identification of the property that will be certain but are designed to afford notice to the owner, and therefore should be such as not to mislead by departure from strict accuracy.—*Jackson v. Sloman*, 117 M. 126.

Where acreage property is described the acreage must be correctly given. Exceptions noted in the description must be clearly defined. Failure to do this is the occasion of much trouble in tax records. If there is exempt property within the area described—for instance, if a railroad crosses the land, or a schoolhouse site is located thereon, the exception must be distinctly designated and the acreage assessed correctly stated.

Properties which are crossed by railroads should not be assessed as one parcel without any reference to the railroad. There should be excepted from these assessments the right of way of the railroad company. It would be safer to assess that portion of the forty lying east or west of north or south of the railroad, as the case may be, separately, treating them as separate parcels of land, there being another owner or occupant coming in between. At all events they should except the right of way of the railroad company. That the railroad company is an occupant of this land there can be no question, and therefore land thus severed should not be assessed as one parcel. It is certainly safer to treat land thus crossed as different parcels.—*Opinion of Hon. John W. Stone*, Circuit Judge 25th Judicial District; quoted in *Auditor General v. Pendill*, 123/521.

"Thence running to the rear of the said" land does not necessarily mean that parcel is bounded by the rear line of the land referred to, but may simply indicate the direction of the boundary: as if the word "toward" were used instead of "to" and is therefore indefinite.—*Moran v. Lezotte*, 54 M. 83.

"Any description by which they may be known" should be understood to mean description by which any person may know the land. The owner may be, in the common acceptance of the term, a stranger to the land, and the description must be given with sufficient particularity to afford means of identification. One of the worst forms of description in common use is that in which a piece of land is described as "bounded north by Savage, east by Davis, south by Shier and west by Schaufele." There are hundreds of such descriptions on the records of delinquent tax lands, the same land being held for various years, but described as bounded by the lands of different persons as changes of ownership have occurred, and it is impossible to bring the several years together in the absence of the records which show changes of ownership. While doubtless many of these descriptions are not fatally defective, they are the occasion of much trouble and uncertainty and should be avoided as far as possible. A much better description would be to start from a point so described as to be geographically located with certainty and from there to go from point to point by natural stages until the starting point is again reached.—*Assessor's Manual*, 55. Description of building is no description of the lot.—*Lefevre v. Mayor*, 2 M. 586. Description must be sufficient to fit and comprehend the property.—*Eggleston v. Wagner*, 46 M. 618. Land described "less lots sold" cannot be held bound.—*Hubbard v. Winsor*, 15 M. 146. But where a misdescription of lands in an assessment roll was caused by following a list furnished by the parties themselves, they were not allowed to claim it as a ground of equitable relief and were remitted to their legal remedies.—*Ibid*. Further as to description, see *Mann v. Carson*, 120 M. 631.

SUB. 7. A deed is not invalid because of the description of the land being in figures and well understood abbreviations. But abbreviations, if used, must be such as are in common use.—*Harrington v. Fish*, 10 M. 415; *Sibley v. Smith*, 2 M. 486. Abbreviations unusual in land descriptions (as "q" or "qr" for "¼") must be avoided. As to fractional description see *Donahue v. Klassner*, 22 M. 255; *Augres Boom Co. v. Whitney*, 26 M. 42; *Dart v. Barbour*, 32 M. 271. Further as to abbreviations in roll see *Auditor General v. Sparrow*, 116 M. 574.

See Sec. 99.

SEC. 26. (3849) The description of personal property on said roll may be made by using the word "personal," except in

Personal property.

cases heretofore mentioned, or in the assessing of any dog tax authorized by law, in which case the kind of property assessed shall be properly designated upon the roll.

Enumeration of personal property is surplusage and does not effect the validity of the assessment.—*Comstock v. Grand Rapids*, 54 M. 641.
Dog tax assessed under Act 48, 1901.

"Cash value"
defined.

Location and
appurte-
nances.

SEC. 27. (3850) The words "cash value," whenever used in this act, shall be held to mean the usual selling price at the place where the property to which the term is applied shall be at the time of assessment, being the price which could be obtained therefor at private sale, and not as forced or auction sale. In determining the value the assessor shall also consider the advantages and disadvantages of location, quality of soil, quantity and value of standing timber, water power and privileges, mines, minerals, quarries or other valuable deposits known to be available therein and their value.

The constitutional provision requiring assessments to be made on property at its cash value means not only what may be put to valuable uses, but what has a recognized pecuniary value inherent in itself, and not enhanced or diminished according to the person who owns or uses it.—*Perry v. Big Rapids*, 67 M. 146. Assessments upon anything but the true cash value of property are illegal and in violation of the assessor's official oath.—*Wattles v. Lapeer*, 40 M. 624.

In determining the true cash value of land the value of standing timber should be included.—*Fletcher v. Township of Alcona*, 72 M. 18. The rule should be applied universally. If another than one holding title to the land or possession thereof claims an interest in standing timber or other products or deposits on the land, the owner or person in possession must secure relief from the burden of taxation through mutual agreement between himself and the owner of such products or deposits; the assessor cannot consider such claims.—*Assessor's Manual*, 56.

The determination of assessors and the board of review as to the cash value of property assessed cannot be disturbed if regular, and not fraudulent.—*Detroit Citizens' Street R'y Co. v. Common Council of Detroit*, 125 M. 673.

A charter provision that "In assessing lands within the city which are held and used merely as farming lands, or which are wild and unimproved, the supervisor shall assess such lands at their true cash value, considering the location of the same, and not according to any prospective or supposed value of such lands as city property" is in violation of article 14, section 12 of the Constitution, providing that all assessments shall be on property at its cash value.—*Saltonstall v. Board of Review*, 9 D. L. N. 566.

Each parcel must be assessed at its true cash value. *Auditor General v. Ayer*, 122 M. 136.

See Secs. 2, 74.

OF THE BOARD OF REVIEW.

SEC. 28. (3851 C. L. 1897, Am. by Act 129 Laws of 1901) At the annual township meeting held on the first Monday of April, in the year eighteen hundred and ninety-four, there shall be elected by ballot, on the regular township ticket, two tax paying electors of the township, who shall be owners of land in said township, to serve as members of the board of review, one of whom shall be elected for one year and one for two years, and annually thereafter one member shall be elected for two years, who shall take the constitutional oath of office as other township officers. The supervisor and the two electors so elected shall constitute a board of review for such township. The township board may temporarily fill any vacancy which shall occur in said membership of said board of review, but no member of such township board shall be eligible to fill such vacancy. A majority of said board of review shall constitute a quorum for the transaction of business, but a less number

may adjourn from day to day and a majority vote of those present shall decide all questions.

For board of review in cities see Sec. 107.

SEC. 29. (3852) On the Tuesday next following the third Monday in May, the board of review of each township shall meet at the office of the supervisor; at which time the supervisor shall submit to said board the assessment roll for the current year, as prepared by him, and the said board shall proceed to examine and review the same, and during that day, and the day following if necessary, said board of its own motion, or on sufficient cause being shown by any person, shall add to said roll the names of persons, the value of personal property, and the description and value of real property liable to assessment in said township, omitted from such assessment roll; they shall correct all errors in the names of persons, in the descriptions of property upon such roll, and in the assessment and valuation of property thereon, and they shall cause to be done whatever else may be necessary to make said roll comply with the provisions of this act. The board shall pass upon each valuation and each interest, and shall enter the valuation of each, as fixed by it, in a separate column. The roll as prepared by the supervisor shall stand as approved and adopted as the act of the board of review, except as changed by a vote as herein provided. If for any cause a quorum does not assemble during the days above mentioned, the roll as prepared by the supervisor shall stand as if approved by the board of review.

Time of meeting.

Supervisor to submit roll.

Board to correct and perfect roll.

Supervisor's roll to stand as approved. Exceptions.

Board action must be joint, not individual.—Cooley on Taxation, 257. Boards are as closely limited to the exercise of the authority definitely given them by statutes as are individual officers. The board of review must act strictly within the authority given them by the tax law.—They derive no authority from any other source and have none to make any changes in the assessment roll not specifically given them by said act. For instance, they have no authority to set aside an assessment upon the ground of want of power in the municipality levying it.—Assessor's Manual, 58.

No legal agreement can be made with the board of review by which the whole or any part of a township shall be assessed at a uniform value.—Auditor General v. Ayer, 122 M. 136.

Whether an assessment is excessive is a question for the board of review and not for the courts.—Caledonia v. Rose, 94 M. 216. One is not bound to notice or appeal from an assessment of personal taxes against him if jurisdiction to assess them does not exist.—Williams v. Saginaw, 51 M. 120. When a person is over-taxed for some property and under-taxed for other property on the same roll for an equal or greater amount he is not entitled to abatement. He can claim relief only if the assessment is injurious to him.—Assessor's Manual, 58.

The board of review are not required to base their conclusions upon sworn testimony only. They may act upon their own personal examination or upon any evidence satisfactory to them.—Griswold v. School District, 24 M. 262. In Dryer v. Board of Review, Mich. Mand. Cases 1283, mandamus issued to compel respondents to place upon the assessment roll so much of certain real estate belonging to incorporated body whose property used for the purposes of its incorporation was exempt, as was not so used but rented for mercantile business.

Where board of review intentionally omitted personal property and real estate, and greatly undervalued certain personal property, a judgment holding the whole tax void as to all who had filed objections was proper.—Auditor General v. Pendill, 123 M. 521.

The board of review having met and acted on the grounds of value at the time fixed by statute it is a mere irregularity, not making the taxes void, that the entries of the amount fixed were subsequently made.—Auditor General v. Ayer, 122 M. 136.

The provision requiring the board of review to meet upon specified days for review, etc., is mandatory.—Caledonia v. Rose, 94 M. 216. See also Secs. 99, 130, 156. For time of meeting see also Secs. 30 and 82.

Second
meeting.

Corrections
on request.

Evidence
under oath.

Endorsement
of roll.

Form.

SEC. 30. (3853) Said board of review shall also meet at the office of the supervisor on the fourth Monday in May at nine o'clock in the forenoon, and continue in session during the day and the day following. Such board shall continue its sessions at least six hours each day, and at the request of any person whose property is assessed thereon or of his agent, and on sufficient cause being shown, shall correct the assessment as to such property, in such manner as in their judgment will make the valuation thereof relatively just and equal. To that end said board may examine on oath the person making such application, or any other person, touching the matter. Any member of said board may administer such oath. *After said board shall complete the review of said roll, a majority of said board shall endorse thereon and sign a statement to the effect that the same is the assessment roll of said township for the year in which it has been prepared and approved by the board of review. Said statement may be in the following form, viz.:

"Assessment roll of the township of, for the year 18. . . . as approved by the board of review.

"Dated.

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"Board of Review."

A tax-payer has the right to assume that the board of review will remain in session the full statutory time and to arrange to be present at his pleasure within that time; and if he is prevented by failure of the board to perform this duty, the tax levied against him is void.—*Caledonia v. Rose*, 94 M. 216. Provision that board shall "continue in session during the day and day following" is mandatory; and where property owner is deprived of a hearing by the illegal adjournment of the board the first day, there is no jurisdiction to levy taxes on his property.—*Auditor General v. Chandler*, 108 M. 569. Where owner appeared at place of meeting of board of review on fourth Monday in May but failed to attend session on following day, he cannot be heard to complain on ground that he was deprived of his day in court. Tax is not rendered void because of failure of board to convene on first day.—*Wright v. Auditor General*, 118 M. 556. Final action by the board of review cannot be had after the expiration of the time the statute allows the board to be in session.

The tax-payer must be allowed, before the assessment roll is completed, the opportunity of seeing what assessments have been made against his property, and the privilege of showing that the proposed assessment is for any cause illegal or unjust.—*Woodman v. Auditor General*, 52 M. 28. Tax-payers cannot lawfully be deprived of rights to hearing by board of review.—*Common Council v. Smith*, 99 M. 507. Any person may have redress against unjust or unequal valuation of property on the roll to his injury, whether by over-valuation of his own property or an under-valuation of that of others. Parties whose property is to be taken by summary tax proceedings are entitled as of right to be heard at some stage of the proceedings before the tax becomes an established charge against them or their property.—*Thomas v. Gain*, 35 M. 155.

When the board of review has reduced an assessment, its action is final and cannot be changed, if at all, without giving the party a further hearing. The new increase is an excess of jurisdiction and no valid action can rest on it, against the party so injured.—*Phillips v. Township New Buffalo*, 64 M. 683. Where board of review changes valuations after its authority to do so has expired, the entire tax will be rendered invalid. Omission of valuation in roll by supervisor will not render tax invalid where board of review seasonably supplied the defect. But a change of valuations by the board of review upon its own motion after the expiration of the time allowed for that purpose invalidates the entire tax; and the addition of land to a roll by the board after the expiration of such period invalidates the tax as to the lands so added.—*Auditor General v. Sparrow*, 116 M. 574.

Each case is heard by itself, and when disposed of the party is no longer under obligations to watch proceedings of the board.—*Griswold v. School District*, 24 M. 262. The board cannot refuse to consider the claim of a tax-payer if presented in writing or by an agent or attorney, because he does not appear in person and submit to an examination; but if it has good reason for so doing, it may declare the proof adduced insufficient.

A tax-payer must avail himself of his right to appeal to the board of review or he will have no standing in court when seeking there for abatement of

tax or redress of a wrong done him by the assessment, except when he can show fraud or bad faith on the part of the assessor.—*Peninsular Iron Co. v. Crystal Falls*, 60 M. 510; *Meade v. Haines*, 81 M. 261; *Brown v. Grand Rapids*, 83 M. 101; *Smith v. Carlow*, 114 M. 67. If a tax-payer does not have his assessment corrected and perfected when it is in his power to do so, his failure must be assumed to admit its correctness.—*First National Bank of St. Joseph v. Township of St. Joseph*, 46 M. 526; *Detroit River Savings Bank v. Detroit*, 114 M. 81. Boards of review are the proper tribunals for the correction of unjust assessment, and parties will not be heard in the courts until they have exhausted their remedy before these tribunals.—*Michigan Savings Bank v. City of Detroit*, 107 M. 246.

One cannot complain that the assessment was in name of wrong person, or of any other irregularities which board of review might have corrected had application been made to it.—*Hinds v. Township of Belvidere*, 107 M. 664; *Auditor General v. Keweenaw Asso.*, 107 M. 405. Where property owner rightfully assessed examines assessment at time of meeting of board of review and expresses himself satisfied therewith, one who succeeds to his rights and obligations in the premises cannot complain that the assessment is too high or was not properly reviewed.—*Hamilton v. Ames*, 74 M. 298.

Mandamus will not be granted to compel the assessment of taxable property which has been omitted from the roll, at a time when the owner will be deprived of right of a review of the assessment.—*Maurer v. Cliff*, 94 M. 194.

The presumption that all necessary papers were made and filed is overcome by the production of the assessment rolls with an unsigned certificate attached, and the showing is fatal.—*Dickinson v. Reynolds*, 48 M. 159. No presumption that roll contains certificate, where roll introduced lacks certain leaves and the certificate.—*Newkirk v. Fisher*, 72 M. 113. The necessity for the several sheets of the assessment rolls being properly attached to each other, by sewing or binding, is evident.

Certificate signed by majority of the board is sufficient.—*Mills v. Township of Richland*, 72 M. 100. The proper certificate duly signed and pasted to the roll is compliance with the statute.—*Darmstaetter v. Maloney*, 45 M. 621. That certificate is dated on last review day does not necessarily show that it was premature.—*Yelverton v. Steele*, 36 M. 62. As to date of certificate see *Dickinson v. Reynolds*, 48 M. 159.

Statutory certificate of taxing officers cannot be contradicted in collateral proceedings.—*Tompkins v. Johnson*, 75 M. 181.

Failure to apply to the board of review to correct an assessment does not estop the taxpayer from contesting an absolutely void assessment, the property not being subject to taxation.—*Woodmere Cemetery Association v. Tp. of Springwells*, 9 D. L. N. 119.

A tax-payer must be presumed to know the powers and duties of the board of review, and the time fixed by the statute for its meeting; and he cannot excuse his failure to appear before that body by showing that he was out of the State.—*Hinds v. Tp. of Belvidere*, 107 M. 664.

Where a tax-payer's assessment is upon personal property, not subject to taxation at the place where the property is taxed, the courts may review it.—*Nester v. Tp. of Baraga*, 10 D. L. N. 317.

See Sec. 99.

SEC. 31. (3854) Upon the completion of said roll and its indorsement in manner aforesaid, the same shall be conclusively presumed by all courts and tribunals to be valid, and shall not be set aside except for causes hereinafter mentioned. The omission of such indorsement shall not affect the validity of such roll.

Completed roll valid.

Certiorari will not lie to bring tax proceedings before the supreme court for review.—*Whitbeck v. Hudson*, 50 M. 86; *Hudson Common Council v. Whitney*, 53 M. 158; *Burnett v. Drain Commissioner*, 56 M. 814.

Certificate of equalization does not form a part of assessment roll.—*Tweed v. Metcalf*, 4 M. 579. But must be written or printed on or affixed thereto.—Sec. 34.

The too frequent practice of indicating changes made by the board of review by mere note made of the new valuation, or of the correction of an erroneous description cannot be too strongly deprecated. Such correction is in no proper sense a "completion" of the roll. The law does not in express terms provide that the board endorse their amendment of the roll in ink, nor that they foot it and place the total amount at the foot of the several columns; but anything less than this lacks much of "completion," nor should the concluding sentence of this section be made the excuse for failure to indorse the roll, as provided in Sec. 30.

SEC. 32. (3855) If from any cause a quorum shall not be present at any meeting of the board of review, it shall be the duty of the supervisor, or, in his absence, any other member of the board present, to notify each absent member to attend at once, and it shall be the duty of the member so notified to at-

Absent members.

Second
meeting.

tend without delay. If from any cause the second meeting of such board of review herein provided for is not held at the time fixed therefor, then and in that case it shall meet on the next Monday thereafter, and proceed in the same manner and with like powers as if such meeting had been held as herein-before provided.

Records of
board.

SEC. 33. (3856) The supervisor or clerk of said board of review shall keep a record of the proceedings of the board and of all the changes made in such assessment roll, and shall file the same with the township or city clerk with the statements made by persons assessed.

Failure to keep record cured by Sec. 99 if no injury has resulted to persons assessed.—Auditor General v. Buckeye Iron Co., 9 D. L. N. 706.

EQUALIZATION BY COUNTIES.

Equalization
by supervisors.

SEC. 34. (3857) The board of supervisors in each county shall, at their session in October in each year, examine the assessment rolls of the several townships, wards, or cities, and ascertain whether the relative valuation of the real property in the respective townships, wards, or cities, has been equally and uniformly estimated. If, on such examination, they shall deem such valuation to be relatively unequal, they shall equalize the same by adding to or deducting from the valuation of the taxable property in any township, ward, or city, or townships, wards, or cities, such an amount as in their judgment will produce relatively an equal and uniform valuation of the real property in the county, and the amount added to or deducted from the valuation in any township, ward, or city, shall be entered upon the records. They shall also cause to be entered upon their records the aggregate valuation of the taxable real and personal property of each township, ward, or city in their county as determined by them. The board shall also make such alterations in the description of any lands upon such rolls as may be necessary to render such description conformable to the requirements of this act. After such rolls shall have been equalized, each shall be certified to by the chairman and clerk of the board and be delivered to the supervisor of the proper township, ward, or city, who shall file and keep the same in his office.

Aggregate
valuation.

Correction of
descriptions.

Certification.
To whom
delivered.

Failure to comply with the statutory requirement of equalization by the board of supervisors invalidates the tax. Informal action which is not recorded will not answer the requirements.—Yelverton v. Steele, 86 M. 62. The power of equalization by board of supervisors being confined to the real estate and the whole subject being under their complete jurisdiction, they may adopt their own means of reaching the result. When any alteration is made in the aggregate valuation of the real estate, the additions or deductions so made may be expressed in any form which may by calculation be reduced to a percentage. "Determining the aggregate" involves the necessity of footing the personal estate as valued by the supervisors and the real estate at the amount determined by equalization.—Case v. Dean, 16 M. 12. See also Williams v. Mears, 61 M. 86. If no changes are required it is only necessary to enter upon the record the aggregate valuation of real and personal property of each township, as determined by the board.—Chamberlain v. St. Ignace, 92 M. 332; Hoffman v. Lynburn, 104 M. 494. The statute contemplates that additions or deductions in equalizing will be added to or deducted from the aggregate valuation of all taxable property in the township.—Boyce v. Sebring, 66 M. 210.

It is competent for the board to reduce the aggregate of the assessments below that of the assessors.—Tweed v. Metcalf, 4 M. 579. The board of equalization has no authority over individual assessments. The provision rela-

tive to making descriptions conformable to the requirements of the law is one of vital importance and should have careful attention.

A record of equalization must show the assessed valuation of the several townships and the amount added to or deducted therefrom, else is fatally defective and voids the entire levy for the year.—*Auditor General v. Roberts*, and *Auditor General v. Reynolds*, 83 M. 471; *Chamberlain v. St. Ignace*, 92 M. 332. A record of equalization which shows only "real estate assessed," "real estate equalized," "total estate assessed," "total estate equalized," is too uncertain to have any value as a public record.—*Paldi v. Paldi*, 84 M. 346. The certificate of equalization must be entered upon the several assessment rolls and signed after such entry. In *Westbrook v. Miller*, 64 M. 129, the tax sale and deeds were held void where the chairman of the board of supervisors signed blank certificates of equalization and left them to the county clerk to fill and forward to supervisors.

The failure of the chairman of the board of supervisors to sign the record of equalization and apportionment of State tax is fatal to the validity of the tax deed.—*Weston v. Monroe*, 84 M. 341. The evidence of two witnesses who testify positively that proceedings for equalization, etc., were not signed by chairmen of boards during their respective terms of office, carries more weight of evidence than that of the two chairmen, who did not remember when they signed, but were confident it was not after their term had expired, notwithstanding the presumption as to official acts.—*Auditor General v. Hill*, 97 M. 80.

The power to equalize is exclusive in the board of supervisors.—*Attorney General v. Sanilac Supervisors*, 42 M. 72. The action of the board of supervisors in equalizing the assessment cannot be reviewed by the courts. Fraudulent disregard of their duties may warrant resort to the criminal law or to other remedy; but the correctness of their review cannot be considered by any body. The question of valuation rests with the judgment of the board.—*McDonald v. Escanaba*, 62 M. 555.

The assessment roll is a public record to be retained by the supervisor intact and to be turned over to his successor with the other records and official properties of his office. In the case of *Albany & Boston Mining Co. v. Auditor General*, 37 M. 391, the supervisor took the assessment roll of 1873 which was in his office, and with a blue pencil made such changes and alterations thereon in valuation and otherwise as he deemed necessary and thus made the roll for 1874. The court says: "It was highly improper, if not criminal, for the supervisor to make any changes, alterations or additions in or to the original assessment roll of 1873, required by law to be kept in his office."

The certificate of equalization properly signed and affixed to the assessment rolls is a prerequisite to the making of a valid tax roll.—*Maxwell v. Paine*, 58 M. 80. Supervisors have absolute and exclusive right to the possession of the rolls and are authorized to bring suit in their official characters to recover possession of them.—*Phenix v. Clark*, 2 M. 327.

A meeting of the board of supervisors for the year 1891 shall be held on the fourth Monday of June, and on the fourth Monday of June every fifth year thereafter; and when convened the board shall proceed to equalize the assessment rolls; and each of said supervisors shall add up the columns of their respective rolls, enumerating the number of acres of land and the value of the real estate and personal property assessed, so as to show the aggregate of each.—134 C. L. '97. Where equalization was made at June session (preceding meeting of State Board of Equalization) failure to equalize at October session (in the same year) is not fatal.—*Silsbee v. Stockie*, 44 M. 561; *Boyce v. Sebring*, 66 M. 210.

The assessing district is the unit for equalization, and an equalization that deducts an aggregate sum from the total valuation of several of the districts is void and confers no jurisdiction to levy a state and county tax and sell the land so assessed for non-payment of taxes.—*Messinger v. Peter*, 129 M. 93.

Section 2502, C. L. '97, requires that every order, resolution and determination of such board of supervisors shall be recorded in the records of the board and signed by the chairman and clerk. This section is mandatory and was enacted for the protection of both public interests and private rights. *Pearsall v. Supervisor*, 71 M. 438.

The above section includes all the proceedings required by law to be entered upon the records of the board.—*Weston v. Monroe*, 84 M. 341.

When the assessor and board of review intentionally omitted a large amount of personal property and real estate from the tax roll, and greatly under-valued certain personal property and the business and residence property of the city, in order to throw a heavier burden of taxation on the outlying land in the city, a judgment holding the whole tax roll void as to all who had filed objections against it was proper.—*Auditor General v. Pendill*, 123 M. 521.

The question as to whether there was fraud in making up the assessment roll is a proper one for a jury.—*City of Muskegon v. Boyce*, 123 Mich. 535.

The power of equalization is confined to the real estate.—*Case v. Dean*, 16 M. 23. Whatever deduction is made is on account of under-valuation or over-valuation of real property.—*Auditor General v. Longyear*, 110 M. 223.

A motion before a board of equalization "to amend the report, and that the several townships and cities be equalized as follows," the motion including all the townships and cities with the proper amounts opposite as equalized, covers the entire subject of equalization and is sufficient, although the motion is recorded by the clerk as one to amend the report of the committee on equalization. *Harts v. City of Mackinac*, 9 D. L. N. 482.

It will be presumed that an equalization under Sec. 84 was based upon the real estate as the section requires and not upon both real and personal property where the basis of such equalization does not appear from the proceedings of the board.—*Auditor General v. Ayer*, 109 M. 694.

See Sec. 85, 99.

OF TAXES, HOW AND BY WHOM CERTIFIED.

State taxes.

Auditor General to apportion.
Basis of apportionment.

County indebtedness to state.

To be portion of county tax.

Proviso.

SEC. 35. (3858) On or before the first day of September in each year the Auditor General shall make and record in his office a statement showing the taxes to be raised for State purposes that year, referring to the law on which each tax is based, and the total amount of such taxes. The State tax he shall apportion among the several counties in proportion to the valuation of the taxable property therein as determined by the last preceding State board of equalization, and shall before the October session of the board of supervisors in each year make out and transmit to the clerk of each county a statement of the amount of such taxes so apportioned to such county. He shall also, in a separate item of said statement, set forth the amount of indebtedness of such county to the State as shown by the statement of the account between the county and the State made by the Auditor General on the first day of July next previous to such apportionment, which amount shall be apportioned by the board of supervisors of the proper county at the same time as State taxes contained in said apportionment of the Auditor General, and shall be levied in the same manner as and become a portion of the county taxes for the same year, unless the said indebtedness shall have been paid to the State before October first: *Provided*, That such portion thereof, if any, as should be assessed to a particular township, shall be apportioned to and assessed upon such township, ward or city.

Auditor General is bound to take notice of statutes changing county boundaries and creating new counties, and is bound to know what land falls in each and should apportion the State tax upon the basis of the assessed value of the land in each as last equalized.—*Ontonagon Supervisors v. Gogebic Supervisors*, 74 M. 721. State Board of Equalization.—129 e. s. C. L. '97. Auditor General should anticipate the existence of a new county which has been organized by legislative act in the apportionment of the State taxes and make apportionment accordingly.—*Auditor General v. Menominee Supervisors*, 89 M. 552. As to organization of new counties, see notes to Sec. 105.

When a statement of account between a county and the State showing a debt due the State is correctly and regularly made and the ascertained amount is seasonably certified in due form to the clerk of the county, it is the duty of the board of supervisors at once to make proper apportionment, and if they shall refuse to do so, they may be compelled by mandamus.—*Auditor General v. Jackson Supervisors*, 24 M. 237. Duty of board of supervisors within twenty days after indebtedness to State is certified to proper county officers to levy a tax to pay such indebtedness or to submit to vote of people the issue of bonds for that purpose.—2487 C. L. '97. Services of troops in aid of civil authorities.—1623 C. L. '97.

See Sec. 99.

Duties of township clerk.

Duties of supervisor and county clerk.

SEC. 36. (3859) It shall be the duty of the township clerk of each township, on or before the first day of October of each year, to make and deliver to the supervisor of his township, a certified copy of all statements and certificates on file, and of all records of any vote or resolution in his office authorizing or directing moneys to be raised therein by taxation for township school, highway, drain, and all other purposes, together with a statement of the aggregate amount thereof, and such certified copies shall, by such supervisor, be delivered to the clerk of the county on or before the second Monday of said month, and the same shall by said clerk be laid before the board of supervisors at its annual meeting and filed in his office.

TOWNSHIP TAXES: The clerk's certificate of record of the vote of township board is to be executed and delivered in time for delivery to the county clerk before the meeting of the board of supervisors on or before the second Monday in October.—*Peninsular Iron Co. v. Crystal Falls*, 60 M. 510. A township board has special and limited authority, which must appear upon the face of the record.—*Harding v. Bader*, 75 M. 316. The presumption is in favor of the express terms of the record where no clerical error is shown, nor can a record be contradicted or varied by parol evidence.—*Michigan Land Co. v. Republic Township*, 65 M. 628. Where clerk's certificate is regular on its face and nothing is shown to invalidate the proceedings prior thereto, it is conclusive upon the supervisor and it makes it his duty to assess the tax and to issue his warrant for its collection. In case of issue by clerk of certificate unauthorized by law, supervisor is bound to take notice of the total absence of such legal authority.—*Smith v. Crittenden*, 16 M. 152.

If the several amounts to be raised are stated in township clerk's certificate his omission to aggregate the taxes is unimportant.—*Boyce v. Auditor General*, 90 M. 314.

Township may vote not to exceed \$1,000 for contingent or ordinary expenses, —2269 C. L. '97; but no more except as voted for specific purposes. Action of township board under statute authorizing them to vote money to defray twp. expenses must be had at a regular meeting.—*Peninsula Iron Co. v. Crystal Falls*, 60 M. 510. Time and manner of voting township taxes.—2309 C. L. '97. Township taxes voted by township board before submission are invalid.—*Auditor General v. Sparrow*, 116 M. 574. When electors neglect or refuse to vote money for ordinary township expenses, township board may, at regular meeting, vote necessary amount but no more than might have been voted by electors.—2349 C. L. '97. Township may vote not exceeding 1 per cent on assessed valuation upon prior notice for erecting public buildings.—2270 C. L. '97; requires a majority of qualified electors voting.

Neglect or refusal of electors to vote money for ordinary township expenses must appear upon record of township board to authorize board to vote same, and record of meeting at which board voted must show that all members were present or notified.—*Harding v. Bader*, 75 M. 316; *Auditor General v. McArthur*, 87 M. 457. There is no presumption that electors refused or neglected to vote sufficient funds to defray ordinary expenses, and where township board votes money for that purpose the record must affirmatively show such neglect or refusal; and the same rule applies to the voting of a money tax for highway purposes.—*Newaygo Mfg. Co. v. Echtnaw*, 81 M. 416. Electors cannot be held to have neglected or refused to vote moneys for the contingent or poor funds when these items were not submitted to them; and the township board has no authority to vote either except upon such neglect or refusal.—*Tillotson v. Webber*, 96 M. 144; *Auditor General v. D. S. S. & A. R. R. Co.*, 116 M. 122.

Township record showing vote of highway and contingent taxes upon the day of the annual township meeting sufficiently shows that the action taken was that of the electors, and it will be presumed that it was taken at the time provided by statute.—*Auditor General v. Longyear*, 110 M. 223. Further as to voting taxes, *Crittenden v. Robertson*, 13 M. 58; *People v. Township Board of Woodhull*, 14 M. 28.

Compensation of township officers.—2374-5 C. L. '97. Protection of orchards and vineyards.—5688 C. L. '97. Destruction of noxious weeds.—8499, 3505 C. L. '97. See 4174 C. L. '97, Am. Act 220, 1899.—Expense to be assessed against lands.—5715 C. L. '97. Cutting milkweed.—5719 C. L. '97; expense, how assessed.—5724 C. L. '97. Establishing section corners assessed upon real estate.—2511 C. L. '97. Relocating and perpetuating section corners when desired by resident owners, to be assessed upon lands of persons refusing to pay.—2627 C. L. '97; Act 248 of 1899. Repair, etc., of fences, to be assessed to land of person neglecting to pay.—2418 e. s. C. L. '97; *Gilson v. Munson*, 114 M. 671. Support of poor.—4547-8 C. L. '97. Maintenance of charges at county poorhouse.—4544 C. L. '97.

Payment of railroad aid bonds.—3986 e. s. C. L. '97. Payment of town bonds.—2405 C. L. '97. Mandamus lies to compel town clerk to issue a certificate for levy of tax to satisfy judgment against the township.—*Courtright v. Brook Township Clerk*, 54 M. 182. Township bonds, if legally issued, are fixed charges against the township and record of vote of township board to raise money to pay such bonds need not show neglect or refusal of voters to vote money for such purpose.—*Newaygo Mfg. Co. v. Echtnaw*, 81 M. 416. Certain townships being held liable for county bonds issued for their benefit, action on writ of mandamus was suspended to permit assessment in the following years.—*People v. Townships of Porter and Calvin*, 18 M. 101.

See also 2335 C. L. '97. Further as to township taxes see *Upton v. Kennedy*, 36 M. 215; *Silsbee v. Stockie*, 44 M. 561; *Peninsula Iron Co. v. Crystal Falls*, 60 M. 510; *Williams v. Mears*, 61 M. 86; *Mills v. Township of Richland*, 72 M. 100; *Harding v. Bader*, 75 M. 316.

Supervisor can only assess such taxes as are properly certified to him by township clerk for assessment unless evidenced by other official action and which the law makes it his duty to assess without clerk's certificate.—*Sage v. Auditor General*, 72 M. 638. Where township clerk's certificate showed a given sum voted for township purposes and warrant and tax roll showed greater sum, held that proof of one certificate raises presumption against the existence of another not shown to have been made.—*Case v. Dean*, 16 M. 12.

Township has no authority under the provisions of 2268 C. L. '97 to raise money by tax to be expended for fair-ground purposes.—*French v. Township of South Arm*, 122 M. 598.

Mandamus will lie against township to enforce the assessment of amount to pay county tax, embezzled by township treasurer.—*Hart Township v. Oceana Co.*, 44 M. 417.

SYNOPSIS OF HIGHWAY LAW: 4085-4228 C. L. '97. Limitation of appropriation by highway commissioner for laying out, altering or discontinuing highway without concurrence of the township board \$100.-4040. Determination and apportionment—expense of line roads.—4047. Bridges between townships and between township and village or city.—4051-6. Assessment for damages.—4068. Assessment for highway purposes.—4072-83. Collection of highway labor tax.—4087-95. 4171. Allowance for labor previously performed.—4096, 4098. Allowance for voluntary improvement.—4102. Assessment and collection of money tax for highway purposes.—4104-7. 4112. Assessment for emergent improvement.—4120. Removal of encroachments.—4122. Am. Act 244 of 1899. Erection, repair and preservation of bridges.—4120-34. 4138-40. Allowance for planting shade trees.—4184: for watering troughs or fountains.—4186: for use of wagons with tires not less than three inches in width for hauling loads exceeding 800 lbs. in weight.—4226-7. Discretion of commissioner to require 25% of highway tax to be paid in money.—4165. Report of overseer to commissioner.—4171. 4178. Am. Act. 220 of 1899. No error or omission of duty on the part of overseer shall invalidate highway tax assessed on township roll.—4179. Assessment for purchase of plank or toll road.—4184. Blanks for commissioners and overseers to be furnished by Auditor General.—4191. Assessment for tools.—4193-4. Assessment for highway orders.—4211. Exemption of honorably discharged soldiers and marines from poll tax.—4228.

Assessment of highway and railroad grades.—4249-52 C. L. '97. Township road system.—4287 C. L. '97.

Labor and money tax which electors may vote under 4074 C. L. '97. is only for ordinary improvements for highways and bridges during the year.—Long v. Auditor General, 72 M. 415. An act requiring the township to raise \$4,000 for bridge is in violation of Sec. 9, Art. X. Constitution.—Township of Ada v. Kent Circuit Judge, 114 M. 77. Township board has no authority to exempt certain property from assessment for highway taxes.—Auditor General v. D., S. S. & A. R. R. Co., 116 M. 122.

A special highway tax exceeding the amount allowed by law and assessed for highway not legally laid out without any showing in the township records that it had been voted is void.—F. & P. M. R. R. Co. v. Auditor General, 41 M. 635. Highway tax where no inhabitants and no actual or contemplated highways held invalid.—Michigan Land Co. v. Township L'Anse, 63 M. 700. Highway tax illegal where no action is properly certified to supervisor as taken by township meeting or town board, and board cannot act except on failure of electors, etc., which should appear on record.—Gamble v. Auditor General, 78 M. 302. Voters cannot be said to have neglected or refused to vote highway tax unless question was submitted, and tax voted by township board without such neglect or refusal is unauthorized.—Auditor General v. D., S. S. & A. R. R. Co., 116 M. 122.

A highway tax is illegal when ordered by the board of supervisors without the certificate of the township clerk that such tax had been imposed by the township and it not appearing that such tax was fixed by the township board or that the electors either voted or failed to determine the amount.—Boyd v. Auditor General, 90 M. 314. See also as to sufficiency of record relative to taxes ordered raised. A special highway tax cannot be levied upon the property of a township to pay the indebtedness of road districts therein.—McFarlan v. Township of Cedar Creek, 93 M. 558.

Further as to highway taxes see *Silsbee v. Stockle*, 44 M. 561; *Alcona Co. v. White*, 54 M. 503; *Lake Superior C. R. & L. Co. v. Thompson*, 56 M. 493; *Peninsula Iron Co. v. Crystal Falls*, 60 M. 510; *Michigan Land Co. v. Township L'Anse*, 63 M. 700; *Mich. Land Co. v. Republic Township*, 65 M. 628; *Mills v. Township of Richland*, 72 M. 100; *Turnbull v. Township of Alpena*, 74 M. 621; *Newaygo Mfg. Co. v. Echinaw*, 81 M. 416; *Hoffman v. Lynburn*, 104 M. 494, etc.

DRAIN TAXES: Townships are not agencies to originate proceedings or levy or collect drain taxes, nor do moneys collected belong to township.—*Emerson v. Township of Walker*, 63 M. 483; *Barker v. Vernon*, 63 M. 516. See notes to Sec. 37. Duties of township clerk relative to drain taxes.—4356 C. L. '97. But see "Drain Taxes," Sec. 87.

SYNOPSIS OF SCHOOL LAW: 4630-4838 C. L. '97. Inspectors may attach to a school district any person residing in township and not in any organized district at his request; and for all district purposes, except raising tax for building schoolhouse, such person shall be considered as residing in such district, but when set off to a new district no sum shall be raised for such person as his proportion to the district property.—4655. Voting tax for schoolhouse—limit of tax.—4665. Estimate of school tax.—4674: report to township clerk.—4675. Annual report of taxes assessed.—4677. Purchase of text-books.—4681. Purchase of appendages.—4686. Director's report of moneys raised.—4689. Report of school taxes by township clerk to supervisor.—4701. Apportionment of school taxes.—4703. Assessment of school tax—If any taxes provided for by law for school purposes shall fail to be assessed at the proper time the same shall be assessed in the succeeding year.—4704. Assessment and apportionment of one mill tax.—4705. Assessment and application of taxes in divided district.—4706. Taxes in fractional districts.—4707. Statement to township treasurer of school and library tax.—4708. Statement of one mill tax in fractional district.—4709. Collection and apportionment of taxes on division of district.—4710. Apportionment of money due fractional district.—4713. Two-thirds vote required to borrow money—limit of indebtedness.—4717. Amended Act 190 of 1899. Voting tax to redeem bonds.—4719. Supervisor to assess amount of judgment against district—collection.—4727. Collection of judgment for schoolhouse site.—4734. Appeal from action of inspectors.—4743 e. s. Graded school districts.—4746-51 Am. Act 258 of 1899. Voting tax for school libraries.—4763. Liability of township clerk and supervisor in regard to district taxes.—

4771. Voting tax for text-books.—4776. Estimate of amount to be raised.—4778. Publication of proceedings of annual school meeting in graded districts.—4800. Purchase of flag.—4802. Compensation of county commissioner of schools and examiners.—4817. Voting tax in township school district.—4831. Assessment.—4832. Provision as to taxes.—4836. Compensation of members of board.—4837.

Assessment for public libraries in cities—3449, 3458, 3460 C. L. '97.
Section 4711 C. L. '97 providing that township treasurer shall retain full amount of school taxes on roll subject to order of the district officers, is superseeded by Sec. 52 of the General Tax Law.—3875 C. L. '97.

See Secs. 37 and 99.

A school district has no power to levy a tax except for purposes specified by statute.—*Hinman v. School District*, 4 M. 168. School taxes voted by boards before submission are invalid.—*Auditor General v. Sparrow*, 116 M. 574. Board has no authority to raise money for school purposes unless voters have neglected or refused so to do.—*Auditor General v. D. S. S. & A. R. R. Co.*, 116 M. 122. School taxes not affected by failure of equalization.—*Auditor General v. Gurney*, 109 M. 472.

4704 C. L. '97 requires the supervisor to assess taxes levied by school districts. He has no discretion in the matter but is bound to spread on his tax roll school taxes properly certified and directed to be levied by the board of supervisors.—*Union School District v. Parris*, 97 M. 593. Sub. 6, 4665 C. L. '97, which prohibits the taxation of lands for school buildings unless situated within 2½ miles from the schoolhouse site, applies only to primary schools, and in a graded school district all land within the district may be taxed for the erection of the schoolhouse.—*Keweenaw Ass'n. v. School District*, 98 M. 437. Sec. 4704 C. L. '97, which provides that school taxes not assessed at the proper time shall be assessed the succeeding year, applies where the district board fails to certify the tax to the township clerk in time for certification to the supervisor for assessment.—*Wilcox v. Township of Eagle*, 81 M. 271. School taxes for a district which includes lands in another county are properly levied upon those lands.—*Johnston v. Cathro*, 51 M. 80.

Further, as to school taxes, see *Stuart v. School District*, 30 M. 69; *Jones v. Wright*, 34 M. 371; *Burns v. Bender*, 36 M. 195; *Midland School Districts*, 40 M. 551; *Stockle v. Silbee*, 41 M. 615; *Bryant v. Moore*, 50 M. 225; *Johnston v. Cathro*, 51 M. 80; *Port Huron Board of Education v. Treasurer*, 57 M. 47; *Molles v. Watson*, 60 M. 415; *Burroughs v. Goff*, 64 M. 464; *Wilcox v. Township of Eagle*, 81 M. 271; *Keweenaw Ass'n. v. School District*, 98 M. 437; *Sheldon v. Marion*, 101 M. 256; *Auditor General v. D. S. S. & A. R. Co.*, 116 M. 122.

LOCAL IMPROVEMENTS: The whole theory of a legal assessment for local improvements depends upon a uniform rule of charges within some defined district and resting upon some principle which is intelligible.—*Clay v. Grand Rapids*, 60 M. 451. A special assessment which discriminates between the property of persons taxed cannot be sustained.—*White v. Saginaw*, 67 M. 33. Every valid assessment must be based upon some legally ordained basis of apportionment and not arbitrarily.—*Detroit v. Daly*, 68 M. 503. Charter authority to make local assessments must be strictly followed, and when the mode is prescribed by the charter or by ordinances adopted under its authority the measure of power is limited thereby.—*Whitney v. Village of Hudson*, 69 M. 189.

Where charter requires board of assessors to enter upon special assessment roll the valuation of each parcel within the district, as shown by the last preceding general assessment roll, the valuation of a parcel lying partly within and partly without the district may be apportioned where it was assessed as one tract upon the general roll.—*Boehme v. Monroe*, 106 M. 401.

Terminal property of a railroad company cannot be sold under provisions of special charter for non-payment of assessment for local improvements.—*L. S. & M. S. R. R. v. Grand Rapids*, 102 M. 374. Property of railroad company necessary to enjoyment of its franchise, such as portion of road bed, cannot be sold under proceedings to collect assessment levied thereon for municipal improvements.—*D., G. H. & M. R. R. Co. v. Grand Rapids*, 106 M. 13. A railroad company is not liable to assessment for paving a street because its track is located therein and abuts upon a section of the street so improved, although the assessment is made according to frontage.—*Boehme v. Monroe*, 106 M. 401.

Payment of specific taxes "in lieu of all other taxes" does not exempt from assessment for local improvements.—*L. S. & M. S. R. R. Co. v. Grand Rapids*, 102 M. 374. But a section of railroad right-of-way occupied by tracks and used for no other purpose, cannot be assessed for improving a street which crosses it under city charter requiring such assessment to be according to benefits.—*D., G. H. & M. R. R. Co. v. Grand Rapids*, 106 M. 13. Further, as to assessment for, see *Woodbridge v. City of Detroit*, 8 M. 274; *Jackson v. Detroit*, 10 M. 248; *Goodrich v. Detroit*, 12 M. 279; *Hobart v. Detroit*, 17 M. 246; *Scotfield v. Lansing*, 17 M. 437; *Motz v. Detroit*, 18 M. 495; *Hoyt v. Saginaw*, 19 M. 39; *Steckert v. East Saginaw*, 22 M. 104; *Lansing v. Van Gorder*, 24 M. 456; *Powers' Appeal*, 29 M. 504; *Warren v. Grand Haven*, 30 M. 24; *Jones v. Water Commissioners*, 34 M. 273; *Thomas v. Galt*, 35 M. 155; *Butler v. Detroit*, 43 M. 552; *Sheley v. Detroit*, 45 M. 431; *Cumings v. Grand Rapids*, 46 M. 150; *Rentz v. Detroit*, 48 M. 544; *Beldier Mfg. Co. v. Muskegon*, 63 M. 44; *Adams v. Bay City*, 78 M. 211; *Manistee v. Harley*, 79 M. 238; *Thayer v. Grand Rapids*, 82 M. 298; *Auditor General v. Fisher*, 84 M. 128; *Ely v. Grand Rapids*, 84 M. 336; *Sligh v. Grand Rapids*, 84 M. 497; *Davies v. Saginaw*, 87 M. 439; *Whitney v. Port Huron*, 88 M. 268; *Townsend v. Manistee*, 88 M. 408; *Hembling v. Big Rapids*, 89 M. 1; *Beecher v. Detroit*, 92 M. 268; *School Furniture Co. v. Grand Rapids*, 92 M. 564; *Lundbon v. Manistee*, 93 M. 170; *Auditor General v. Maier*, 95 M. 127; *Powers v. Grand Rapids*, 98 M. 393; *Big Rapids v. Supervisors*, 99 M. 351; *Trowbridge v. Detroit*, 99 M. 443; *Lumber Co. v. East Jordan*, 100 M. 201; *Borgman v. Detroit*, 102 M. 261; *L. S. & M. S. R. R.*

Co. v. Grand Rapids, 102 M. 374; Goodwillie v. Detroit, 103 M. 283; Moore v. Detroit, 103 M. 292; Turner v. Detroit, 104 M. 326; Shimmmons v. Saginaw, 104 M. 511; Harper v. Grand Rapids, 106 M. 551; Duffy v. Saginaw, 106 M. 335; Boehme v. Monroe, 106 M. 401; Scotten v. Detroit, 106 M. 564; Nelson v. Saginaw, 106 M. 659; Brown v. Saginaw, 107 M. 643; Atwell v. Barnes, 109 M. 10; Balch v. Detroit, 109 M. 253; Fitzhugh v. Bay City, 109 M. 581; Bandistel v. Jackson, 110 M. 357; Detroit v. Judge Recorder's Court, 112 M. 588; Thompson v. Detroit, 114 M. 502; Kalamazoo v. Franchoise, 115 M. 554; Bogert v. Jackson Circuit Judge, 118 M. 457; Walker v. Ann Arbor, 118 M. 251; Scribner v. Grand Rapids, 119 M. 188; Voigt v. Detroit, 123 M. 547; Goodrich v. Detroit, 123 M. 559.

See Sec. 99.

Supervisors
to apportion
taxes among
townships.

To examine
requirements
of townships.

To hear
objections.

Correction of
records, etc.

Duties of
prosecuting
attorney.
Township,
etc., taxes.

Record of
action.

SEC. 37. (3860) The board of supervisors, at their annual session in October in each year, shall ascertain and determine the amount of money to be raised for county purposes, and shall apportion such amount, and also the amount of the State tax and indebtedness of the county to the State among the several townships in the county in proportion to the valuation of the taxable property therein, real and personal, as determined by them for that year, which determination and apportionment shall be entered at large on their records. They shall also examine all certificates, statements, papers and records submitted to them, showing the moneys to be raised in the several townships for school, highway, drain, township and other purposes. They shall hear and duly consider all objections made to raising any such moneys by any taxpayer to be affected thereby. If it shall appear to the board that any certificate, statement, paper or record is not properly certified, or that the same is in anywise defective, or that any proceeding to authorize the raising of any such moneys has not been had, or is in anywise imperfect, and such certificate, statement, paper, record or proceeding can then be corrected, supplied or had, such board may authorize and require such defects or omissions or proceedings to be corrected, supplied or had. They may refer any or all such certificates, statements, papers, records and proceedings to the prosecuting attorney, whose duty it shall be to examine the same and, without delay, report in writing his opinion to the board. They shall direct that such of the several amounts of money proposed to be raised for township, school, highway, drain and all other purposes, as shall be authorized by law, be spread upon the assessment roll of the proper townships, wards and cities. Such action and direction shall be entered in full upon the records of the proceedings of the board, and shall be deemed final as to the levy and assessment of all such taxes.

Annual session second Monday in October; county clerk to publish notice three weeks.—2475 C. L. '97. Annual session in October embraces all adjournments.—Hubbard v. Winsor, 15 M. 146. Clerk to record all proceedings.—2477 C. L. '97. Final passage requires majority of all members elect.—2476 C. L. '97.

COUNTY TAX INCLUDES: Not exceeding \$1,000 to build or repair roads or bridges, by two-thirds vote of board of supervisors.—Sec. 9, Art. X, Const.; 2484 C. L. '97, Sub. 15. Laying out highways and constructing bridges.—Sec. 11, Art. X, Const. Erecting and repairing county bridges.—2441 C. L. '97, and State and territorial roads.—2498, 2501 C. L. '97. Burial lots for soldiers.—1897 C. L. '97. Burial of soldiers.—Act 242 of 1899. Soldiers' monuments.—1700-2 C. L. '97. Courthouse.—2454 C. L. '97. Judgments.—2471 C. L. '97. Repair of public buildings.—2480-1 C. L. '97. Publication of proceedings.—2482 C. L. '97. Purchase of real estate necessary for poor-farm and public buildings; removal of county buildings within limit of county seat; erection of necessary public buildings, may not borrow or raise by tax more than \$1,000 in any year for constructing or repairing public buildings, highways or bridges unless authorized by majority vote of electors; payment of loan made by board within 15 years from date of loan; compensation for services rendered for and claims

allowed against county: current expenses and necessary charges incident to or arising from the execution of lawful authority of board of supervisors within limitation prescribed by law.—2484 C. L. '97; but the power to fix and determine the site of any building, to remove site of county buildings within limits of county seat, to erect buildings, to abolish or revive distinction between township and county poor, to make regulations for destruction of wild beasts and obnoxious weeds, to authorize townships by vote of electors to borrow or raise money by tax in excess of \$1,000 for roads and bridges, to determine the relative proportion of the expense of roads and bridges between townships and to transact business of the county in cases where no other provision is made, requires two-thirds of all the members of the board.—2485 C. L. '97.

Transportation and distribution of public documents.—Sec. 32, Act 44 of 1899. Compensation of members of boards of supervisors.—2503 C. L. '97; and board of auditors. Wayne county.—2526 C. L. '97. Salary of stenographers.—374 e. s. C. L. '97. Salary of county officers.—2649 C. L. '97; in Wayne.—2529 C. L. '97. Compensation of county treasurer.—2542 C. L. '97; of prosecuting attorney.—2562, 2564 C. L. '97; of county clerk.—2576 C. L. '97. Salary of probate judges.—2551-2 C. L. '97; of probate register.—2554 C. L. '97. Expenses of probate courts.—693-7, 690 C. L. '97. Salary of sheriffs, U. P.—2598-9 C. L. '97. Insurance of county buildings.—2543 C. L. '97. Assistance in criminal cases.—2569 C. L. '97. Jail, etc., charges.—2653 C. L. '97. Damages and compensation awarded in condemnation of plank or toll road.—2516 C. L. '97. Books for clerk's office and clerk's calendar.—2574 C. L. '97; for register of deeds.—2615 C. L. '97; and surveyors.—2622 C. L. '97. County clerk's books for soldiers' discharges, and fees for recording.—1704 e. s. C. L. '97. Seal for register of deeds.—2616 C. L. '97. Plats and field notes of survey of lands in county.—2624 C. L. '97. Enrolment of militia.—1567 C. L. '97. Weights and measures.—4884 C. L. '97. Support of defectives.—4513 C. L. '97; and paupers.—4539 C. L. '97. Infectious diseases.—4424 C. L. '97. Soldiers' relief fund.—Act 214 of 1899. Restoring plats.—3389 C. L. '97. Building poor houses.—4508 C. L. '97. Support of county poor.—4527 C. L. '97. Payment of judgment for damages by mob.—Act 252 of 1899.

Fish whutes in certain counties.—Acts 116 of 1893 and 118 of 1895. Indebtedness to State, tax or bonds for.—2487 C. L. '97. Expenses of establishing lines and corners, to be assessed upon lands benefited.—2627 C. L. '97. Expenses of mine inspection, to be assessed in separate column.—5494 C. L. '97. Removal of county seat.—Sec. 8, Art. X, Const. Vote of county for loan or tax for removal of county seat.—2493 C. L. '97. Wayne board of auditors shall report to supervisors amount of tax necessary to be raised for county purposes.—2532 C. L. '97. County road system.—4262 e. s. C. L. '97.

Power of board of supervisors to fix compensation or adjust claims.—See Sec. 10, Art. X, Const.

Failure of board of supervisors to examine certificates, etc., is an irregularity at most, and in the absence of an affirmative showing of defects in taxes or that defendant tax-payer has been denied a hearing, the validity of the taxes will be presumed.—Auditor General v. Hill, 98 M. 326.

Determination of board of supervisors must be recorded in the records of the board and must be signed by the chairman and the clerk.—2502 C. L. '97. Neglect or refusal of members of the board to perform any duty required by law.—2504 C. L. '97.

Apportionment of indebtedness of vacated villages if in two or more townships.—2954 C. L. '97.

"To raise money by tax or loan" does not warrant resort to both methods at one time to raise an amount which both together would produce.—Loomis v. Rogers Township, 53 M. 135.

Board of supervisors has no power under Subs. 7 and 10, Sec. 2484 C. L. '97, to borrow the money necessary to defray the current expenses and charges of the county, but the same must be raised by taxation.—Supervisors v. Warren, 98 M. 144.

Mandamus refused to compel provision to be made by taxation to pay warrants issued by board of supervisors for county building purposes in excess of statutory limits when not submitted to vote.—Pack v. Supervisors of Presque Isle, 36 M. 377; see also Callam v. Saginaw, 50 M. 7. As to manner of submitting vote see Thomas v. Kent Circuit Judge, 116 M. 108.

Mandamus granted to compel supervisors to spread upon roll sum lost by State in consequence of failure of county treasurer to account for moneys received at tax sale conducted by him.—Attorney General v. Supervisors St. Clair Co., 30 M. 388.

It is competent for the board of supervisors to raise money for building bridges, also for the destruction of Canada thistles and other noxious weeds, the destruction of which is provided for by law; and this may be regarded as a highway tax.—Tweed v. Metcalf, 4 M. 579.

The power of taxation implies apportionment and when that power has been exercised courts will not declare it void unless a flagrant invasion of private rights is clearly demonstrated.—School Furniture Co. v. Grand Rapids, 92 M. 564. Board not required to determine the amount of State tax to be raised, but simply to apportion the State tax, reference being had to the Auditor General's certificate.—Hoffman v. Lynburn, 104 M. 494. State and county taxes are wholly distinct in their object, destination and amount from the other taxes; they stand upon their own necessity and have no such natural or legal connection with the others as to be necessarily involved in the same fate.—Pillsbury v. Auditor General, 26 M. 245.

Board having fixed the amount to be raised at a percentage on the assessed valuation, held valid, being just as certain as though calculated.—Hubbard v. Winsor, 15 M. 145. But if amounts are definitely fixed by calculation no question can be raised.

The requirements that the board of supervisors shall ascertain and determine the amount to be raised, etc., and apportion among townships, etc., and that their action shall be entered in full upon the records, are mandatory.—*Boyce v. Sebring*, 66 M. 210. As to action of board and record thereof see *Boyce v. Auditor General*, 90 M. 314.

Boards of supervisors have no general power to establish claims in favor of the counties against townships.—*People v. Wright*, 19 M. 351.

In *Fay v. Wood*, 65 M. 390, objection being made to the assessment roll for want of statutory certificates, and it being claimed that the appearance of the roll showed that one or more leaves had been detached, it was held that a question of fact was presented whether the roll was properly certified when delivered to the supervisor.

The board of supervisors does not originate township or school taxes.—*Robbins v. Barron*, 33 M. 124.

That the board of supervisors at their annual meeting voted county taxes in a gross sum, instead of setting forth the items, will not invalidate a tax levy where it is not shown that the amount levied is unreasonable or in violation of the limitations of the act authorizing the levy.—*Weston Lumber Co. v. Munising Twp.*, 123 M. 138.

COUNTY ROAD SYSTEM: 4262-86 C. L. '97. In counties which have voted to adopt the county road system provided for by Act 149 of 1893, the board of supervisors are required to apportion such tax for county roads as shall be certified to them under the provisions of Sec. 20 of said act, and assessors must put such tax in a separate column on the roll, to be headed "County Road Tax."—4281 C. L. '97.

AGRICULTURAL SOCIETIES: Assessment for.—5947 C. L. '97. Assessment void if tax was ordered without receiving sworn certificate showing statutory amount raised by the society. *Hall v. Kellogg*, 16 M. 135; *Hogelskamp v. Weeks*, 37 M. 422. But county tax will not be invalidated unless it is conclusively shown that amount therefor was included therein.—*Boyce v. Auditor General*, 90 M. 314. As to presumption that certificate was present.—*Sisbee v. Stockle*, 44 M. 561. As to manner of apportionment.—*Harding v. Bader*, 75 M. 316.

HIGHWAY TAXES: The board of supervisors has no power to raise money in a county tax to be expended generally upon highways.—*Sage v. Auditor General*, 72 M. 638. Highways and roads are by the constitution put under the control of the board of supervisors, not arbitrarily, but under legal restrictions, and those restrictions have confined them to State and territorial roads; and they can have no occasion to raise money for other roads, and they must exercise their own judgment in expending such moneys as they may lawfully raise. A resolution of a board of supervisors providing for raising money to be paid over to towns without any definition of purposes and to be spent under direction of a town officer is held to be unauthorized and void.—*Attorney General v. Bay Co. Supervisors*, 34 M. 46. A tax voted by the board of supervisors to be included in the county tax to be distributed among and expended by the several supervisors for highway purposes is illegal.—*Gamble v. Auditor General*, 78 M. 302.

SYNOPSIS OF DRAIN LAW: 4308-96 C. L. '97. Where benefits and assessments for drain laid in one county extend to lands in adjoining county, commissioners of counties affected shall act jointly.—4312. Where drain runs through city appeal from assessment to be to common council.—4313. No drain tax spread until all records have been filed with county clerk.—4314. Petition for drain.—4319, Am. Act 272 of 1899. Award of damages to be deducted from assessment of benefits.—4331. Order of determination shall include description of lands to be assessed for benefits, said lands to constitute special assessment district. Notice of letting to be served on resident owners and to contain description of lands. Review of assessment.—4340, Am. Act 272 of 1899. Determination of period of collection.—4341. Parties assessed to be perferred in awarding contract.—4342; Am. Act 272 of 1899. Commissioner to apportion per cent of benefits to township and to lands benefited, subject to review.—4344; Am. Act 272 of 1899. Appeal to probate court.—4345, Am. Act 272 of 1899. Appointment of board of review—review of assessment—review upon certiorari.—4346, Am. Act 272 of 1899. Who may not act upon appeal.—4347. Review—lands added to district—notice to non-resident owner—decision of board of review final.—4348, Am. Act 272 of 1899. Costs.—4349, Am. Act 272 of 1899. Assessment to be for benefits—description of lands.—4350. Assessment and collection on part-paid and state lands—report of assessment upon state lands to be made by supervisor to Commissioner of State Land Office and amount to be paid by Auditor General on certificate of Commissioner.—4351: but the sum of all drain taxes that may be assessed against any state lands, including all drain taxes heretofore paid by the state, shall not aggregate a sum greater than 50 per cent of the price at which said lands are held by the state. Additional assessment not subject to review or appeal.—4352. Adjournment of review—appeal by township.—4353, Am. Act 272 of 1899. Computation of assessment.—4354, Am. Act 272 of 1899. Commissioner to make special assessment roll for each township and city affected and shall certify thereon his determination as to time of payment—rolls to be filed in office of township or city clerk before last Wednesday in September.—4355, Am. Act 272 of 1899. Clerk to certify to supervisors amount to be assessed—supervisors to lay statement before board of supervisors at next annual meeting.—4356. Supervisor to spread assessment when so directed by board.—4357. Supervisor to give township treasurer a statement of the amounts assessed at large in the township and endorse upon special assessment roll in clerk's office the amount of benefits spread on his tax roll.—4358. Collection of drain taxes under provisions of general tax law—taxes a lien upon land.—4359. (Provision of same section that tax shall be a personal claim against owners is deemed to be

invalid. See notes to section in Compiled Laws of 1897.) Lands to be returned for delinquent tax as for other taxes.—4360. Drain taxes collected to be accounted for to county treasurer—may be paid to township or county treasurer with drain orders on same drain.—4362. Collection not to be enjoined.—4363-4. Proceedings for collection.—4365. Relaying or completion of drain—reassessment of benefits—allowance upon reassessment for sums paid—provisions apply to drains laid under prior laws.—4366, Am. Act 272 of 1899. Drain taxes charged back and reassessed.—4367. Suit for drain taxes.—4368-70. Drain tax subject to be set aside for error in description or other defects in roll to be reported by commissioner to board of supervisors at October session, who shall order reassessment upon proper description. Such report may be made at any time before the sale of the land for such tax.—4369, C. L. '97. (Whenever this is done after the lands are returned by township treasurer a report of the action taken should be at once certified to the Auditor General by county clerk.) Drains traversing more than one county—appointment of special commissioners—assessment apportioned to counties and certified to clerks—assessment and collection as hereinbefore provided—assessment for cleaning, straightening, deepening, widening or extending drains—provisions for assessment and collection same as for other drain taxes.—4370-80.

County drain commissioner shall be a party in any action to set aside drain tax.—Act 141 of 1899.

The report of a committee appointed to tabulate the report of the township clerk to the county clerk of moneys voted to be raised in the several townships, is not sufficient to legalize a drain tax spread upon the assessment roll without direction of the board of supervisors. In this respect drain taxes appear to be on a different footing from other taxes.—*Post v. Harris*, 95 M. 321.

A warrant for the collection of drain taxes is fatally defective if the taxes are not so spread on the assessment roll as to identify the several drains and the levy for each.—*Dunning v. Calkins*, 51 M. 586.

Further as to drain taxes see *Butler v. Supervisors of Saginaw Co.*, 26 M. 22; *Harbaugh v. Martin*, 30 M. 234; *Dawson v. Township of Aurelius*, 49 M. 479; *Brownell v. Gratiot Supervisors*, 49 M. 414; *Clark v. Drain Commissioner*, 50 M. 618; *Wallace v. Sortor*, 52 M. 159; *Whiteford v. Probate Judge*, 53 M. 180; *Bixby v. Goes*, 54 M. 551; *Frost v. Leatherman*, 55 M. 33; *Emerson v. Township of Walker*, 63 M. 483; *Barker v. Township of Vernon*, 63 M. 516; *Alger v. Slaght*, 64 M. 589; *Lindsay v. Eastwood*, 72 M. 336; *Taylor v. Township of Avon*, 73 M. 604; *Cook v. Auditor General*, 79 M. 100 (on part paid); *Mason v. New Haven Township*, 82 M. 435; *Conley v. St. Clair Supervisors*, 88 M. 245; *Nugent v. Erb*, 90 M. 278; *Tinsman v. Monroe Supervisors*, 90 M. 382; *Tile Company v. Snyder*, 93 M. 325; *Bump v. Jepson*, 108 M. 641; *Laubauch v. O'Meara*, 107 M. 29; *Atwell v. Barnes*, 109 M. 10; *Angell v. Courtright*, 111 M. 223; *Hilton v. Dumphy*, 113 M. 241; *Smith v. Carlow*, 114 M. 67; *Brady v. Hayward*, 114 M. 326; *Kiley v. Bond*, 114 M. 447; *Hillyer v. Jonesfield*, 114 M. 644; *Roberts v. Smith*, 115 M. 5; *Smith v. Board of Supervisors*, 115 M. 202; *Thomas v. Walker Township Board*, 116 M. 597; *Houser v. Burbank*, 117 M. 463; *Lanning v. Palmer*, 117 M. 529; *Post v. Harris*, 95 M. 321; *Zink v. Supervisors, Mich. Mandamus Cases 1337*; *Henderson v. Darling, Mich. Mand. Cases 1339*; *Snyder v. Supervisors, Mich. Mand. Cases 1340*; *Auketell v. Hayward*, 119 M. 525; *Jenny v. Township of Mussey*, 121 M. 229.

See Sec. 99.

SEC. 38. (3861) The clerk of the board of supervisors shall, immediately after the said apportionment, make out two certificates showing the amounts apportioned to each township for State, county and the various township purposes, each tax being kept distinct, one of which he shall deliver to the county treasurer, and the other to the supervisor of the proper township: *Provided*, That if said clerk fail to make such certificate the supervisor shall take official notice of all certificates, statements, papers and records in the office of the township and county clerk relating to the levy of taxes in his township, and of the action of the board of supervisors thereon.

County clerk to make certificates of apportionment.

Proviso.

Supervisors can only assess such taxes as are properly certified to him unless evidenced by other official action and which the law makes it his duty to assess without clerk's certificate.—*Sage v. Auditor General*, 72 M. 638. Mandamus will not be granted to compel a supervisor to spread upon his roll that portion of the county tax certified to him which, while purporting to have been voted for the purchase of a poor farm, is really to aid in securing a location for a tannery.—*Cheboygan Supervisors v. Township of Mentor*, 94 M. 386.

See Secs. 36, 37, 99.

TAXES—HOW TO BE ASSESSED.

SEC. 39. (3862) The supervisor of each township or ward, and the assessing officer of each city or village, as provided by law, shall proceed to assess the taxes apportioned to his town-

Assessment, how made.

ship, or assesment district, according and in proportion to the valuations entered by the board of review in the assessment roll of the township, ward, village or city of the year: *Provided*, That if the board of review make no such entry, then on the valuation therein as entered by the supervisor or assessor. For the purpose of avoiding fractions in computation, the assessor may add to the amount of the several taxes to be raised not more than one per cent; said excess shall belong to the contingent fund of the township; such taxes shall be entered in separate columns, as follows: All school taxes and the one mill tax in one column, highway taxes in another, township taxes in another, county taxes in another, and the State taxes in another column; and if other taxes are at any time required to be raised, they shall be placed in separate columns. The total of all the taxes assessed against any one valuation or parcel of property shall be added and carried out in the last column upon the right hand side of such roll.

Proviso.

Several taxes entered separately.

Total to be extended.

The several taxes assessed must be clearly defined at the head of the several columns in which they are entered. It is not sufficient that this designation be such that the assessor understands what the tax is; it must be so written at the head of the column that any other person may understand what the tax is for. In *Tillotson v. Webber*, 98 M. 144, it was held that where an amount charged against a description as "township tax" can be accounted for only by assuming that the general highway tax is included, it is a violation of the law and renders a tax deed for such a tax invalid.

Approval of board of supervisors of assessment to pay judgment against city not necessary, and failure of clerk to certify to board of supervisors cannot defeat assessment, which should be apportioned as are other taxes.—*Shippy v. Mason*, 90 M. 45.

Supervisor cannot levy tax at his discretion.—*Lacey v. Davis*, 4 M. 157. The failure of the supervisor to extend the taxes upon a corrected assessment roll received from the board of supervisors after equalization was held in *Seymour v. Peters*, 67 M. 415, to be fatal to the validity of the taxes. For later cases see Sec. 99.

Assessors cannot alter or amend the rolls as certified by the board of supervisors in any particular.—*Clark v. Axford*, 5 Mich. 190. Supervisor is not liable for refusing to make an assessment to pay a judgment which was a nullity.—*Brewer v. Palmer*, 13 M. 104. In *Wayne County Savings Bank v. Supervisor*, Mich. Mandamus Cases 1348, mandamus issued to compel assessment to pay township bonds. Mandamus having been granted to compel supervisor to assess taxes to pay bonds due, second writ will not be granted to compel an assessment for the uncollected portion until the sale of the lands for delinquent taxes upon which said assessment was made.—*Wayne County Savings Bank v. Supervisors*, 97 M. 630. In *Attorney General v. Finney*, Mich. Mandamus Cases 1318, mandamus was granted to compel a supervisor to assess State and county taxes as apportioned, he having refused to act on the ground that the equalization was inequitable.

A tax is invalid if it appears only upon a roll to which it does not belong and is omitted from a roll to which the law authorizing it expressly assigned it.—*Folkerts v. Powers*, 42 M. 283. Repair of fences to be assessed in separate column.—2418 C. L. '97. Assessment of judgment against township, village or city in certain cases.—10482-3 C. L. '97. Assessment to pay indebtedness of vacated village.—2953 C. L. '97. Assessments for public improvements under Act 124 of 1883.—3406 C. L. '97. Provision that taxes be in separate column is mandatory.—*Cooley* on taxation 428. The statute requiring the one mill tax to be stated in the column of school taxes is not merely directory, but mandatory.—*Case v. Dean*, 16 M. 12. The one mill tax should be determined by assessed valuation and not by equalized valuation.—*Township of Deerfield v. Harper*, 115 M. 678.

Held, that the term "board of review," in section 39, applies to the local board or the State board, as circumstances require, and, where the State board had changed the valuations, the taxes should be assessed according to the valuations so changed.

The opinion of the assessor that the acts of the board of State tax commissioners in changing the valuation in the assessment roll were irregular and void did not excuse him from assessing the taxes according to such changed valuations, since the opinion of an officer that the acts of his superior are void did not excuse him from assessing the taxes according to such changed valuations, since the opinion of an officer that the acts of his superior are void does not relieve him from performance of a statutory duty based on such acts.—*State Tax Comrs. v. Quinn*, 125 M. 128.

The question of raising highway taxes must be submitted to the electors at the township meeting under 4073, 4074 and 4075 C. L., and they must have

neglected and refused to act before the commissioner is authorized to act.—*Thayer Lbr. Co. v. Tp. of Springwells*, 9 D. L. N. 182.

After an assessment roll had been made, reviewed and completed, the supervisor fraudulently altered the valuation of certain lands by reducing the valuation fixed by the board of review. Held, that the entire tax was vitiated by the fraud and the fraudulent tax roll was absolutely void.—*Auditor General v. Hughitt*, 9 D. L. N. 614.

One whose land is assessed for benefits in the construction of a drain, who, with full knowledge of the proceedings, takes none of the statutory steps to determine their validity, cannot afterwards set up defects in the proceedings to defeat the payment of the taxes assessed for the construction of the drain.—*Wilson v. Woolman*, 10 D. L. N. 184.

In the computation and extension of the taxes the greatest care should be observed. The computation and entry in the assessment roll of the amount to be levied on each parcel of property is a judicial duty of assessors which cannot be delegated to third persons to be performed out of the presence of the assessors or without their supervision.—*Black on Tax Titles* 120.

Any increase or diminution made by the supervisors in the equalization must be shared alike by both realty and personality, and a tax is void if the entire increase is distributed upon the realty, the tax on the land being excessive.—*Sinclair v. Learned*, 51 M. 335. It is not competent to put one rate upon real estate, another rate upon personal property generally, and still another rate upon certain kinds of corporate stock.—*Black on Tax Titles* 28. Where a sum of money has been lawfully voted to be raised by taxation for township purposes, the failure of the board of supervisors to direct its levy would not invalidate the action of the supervisors in spreading it upon the rolls.—*Upton v. Kennedy*, 36 M. 215.

There must be no more levied in the aggregate for any given tax than is authorized, and the proportion charged against each parcel of land or to each person to whom property is assessed, must be no more than such person or property can properly be charged with.—*Assessor's Manual* 71. The reason for holding a tax sale void when the levy is excessive is that the sale is for the aggregate of all the taxes, so that the tax title is based as much on what is illegal as upon what is lawful.—*Silsbee v. Stockle*, 44 M. 561. Excessive tax levies are held to invalidate a tax deed because they are unauthorized and that the officer has no jurisdiction to make them; and where such a levy is made upon taxable property contained in the whole roll the entire roll is invalidated, as where an excess of \$3.01 of two mill tax was levied upon the property of the township.—*Boyce v. Sebring*, 66 M. 210.

Any material excess in the State, county, or township tax and which are all blended in one column, will render the taxes in such column void.—*Case v. Dean*, 16 M. 12. Practically any excess is held to be material. An excess of \$25.00 in a township tax legally assessed invalidates the sale of land upon which any part of the excess was levied.—*Rogers v. White*, 68 M. 10. An excess of 45 cts. in highway tax on a parcel of land renders the tax deed therefor void.—*Seymour v. Peters*, 67 M. 415. An excess of seven or eight cents respectively, against two parcels of land was held to render the tax deed therefor invalid so far as it was based upon the tax for the year in which such excess appears.—*Tillotson v. Webber*, 96 M. 144. Sale is void where the tax is shown to be "five or six cents" in excess of the amount authorized by law.—*Burroughs v. Goff*, 64 M. 464. An excess of highway tax over the statutory limit is sufficient to defeat a sale made for an aggregate of taxes of which it forms a part.—*Silsbee v. Stockle*, 44 M. 561. Where a school district record showed \$180.00 voted by electors and no record of increase by the district board and \$240.00 was levied by the supervisor, it was held that a tax title based thereon was void.

The foregoing as to the effect of excessive assessment relates in many cases to the invalidating of sales or tax deeds. Under the present law owners have opportunity to have this excess eliminated by the court on the hearing upon petition for decree and cannot be heard to complain in this particular after decree is entered; but it is none the less important that the excesses should be studiously avoided and so prevent the necessity of and the loss incident to a contest over the taxes.

The question as to whether there was fraud in making up the assessment roll was a proper one for the jury.—*Mnakegon v. Boyce*, 123 M. 535.

Where property is destroyed by fire after the tax has been spread on the roll, the owner is not entitled to a rebate of the tax in absence of action by proper authority remitting the same.—*Case v. City of Detroit*, 8 D. L. N. 954.

After an assessment roll had been made, reviewed and completed, the supervisor fraudulently altered the valuation of certain lands by reducing the valuation fixed by the board of review. Held, that the entire tax was vitiated by the fraud and the fraudulent tax roll was absolutely void.—*Auditor General v. Hughitt*, 9 D. L. N. 614.

Whether the amount assessed is excessive or not cannot be litigated after decree.—*Muirhead v. Sands*, 111 M. 487; *Spaulding v. O'Connor*, 119 M. 45; *Church v. Noster*, 126 M. 547; *Berkey v. Burchard*, 119 M. 101-105; *Cook v. Auditor General*, 124 M. 430; *Wilkin v. Keith*, 121 M. 66; *Hall v. Mann*, 118 M. 201; *Sayres v. O'Connor*, 124 M. 256; *Flint Land Co. v. Auditor General*, 10 D. L. N. 276.

HIGHWAY TAXES: A highway tax is illegal if the manner of levy and collection prescribed by the statutes is not followed.—*Ryerson v. Laketon*, 52 M. 509. Under 4171 and 4178 C. L. '97, a verified return of delinquent labor taxes by the overseer of highways is essential to confer jurisdiction upon the supervisor to spread the tax upon the township assessment roll.—*Hamilton & Merryman Co. v. Township of L'Anse*, 107 M. 419. A tax deed was held void where the taxes for which the sale was made included highway taxes and

the overseer of highways had not sworn to the returns of highway labor which he had made to the supervisor.—*Hogelskamp v. Weeks*, 37 M. 422. A township tax levy for highways is properly added to the other highway taxes on the assessment roll and not to the township tax.—*Silsbee v. Stockle*, 44 M. 561. A highway money tax when voted must be laid upon all property in the township, including that in incorporated villages.—*Ryerson v. Laketon*, 52 M. 509. Highway taxes are not necessarily illegal because for roads in contemplation but not laid out.—*Sawyer-Goodman Co. v. Crystal Falls*, 56 M. 597. The term "any city or school tax" includes highway taxes levied by the authority of the city.—*Alpena City Water Company v. City of Alpena*, 9 D. L. N. 141.

DRAIN TAXES: A warrant for the collection of drain taxes is fatally defective if the taxes are not so spread on the assessment roll as to identify the several drains and the levy for each.—*Dunning v. Calkins*, 51 M. 556. Drain taxes are separate funds not to be confounded with other or similar assessments.—*Wallace v. Sortor*, 52 M. 159. Drain taxes assessed at large to be included in column with general township or city tax; those laid upon lands benefited to be spread in separate column headed with name of drain and opposite descriptions separately written and following descriptions assessed for other taxes on said rolls.—4357 C. L. '97. Supervisor's action in assessing drain tax is merely ministerial; he has no authority to change assessments.—*Lindsay v. Eastwood*, 72 M. 336. Supervisor and township clerk cannot refuse to certify, etc., as to drain taxes, because, in their opinion, the assessments would be invalid because of irregularity in the proceedings.—*Laubach v. O'Meara*, 107 M. 29. But in *Nugent v. Erb*, 90 M. 278, the court exercised its discretion and refused mandamus to require supervisor to assess a drain tax where it appeared that no legal drain could be laid out.

Where the board of supervisors in the exercise of their lawful authority have ordered an assessment for the construction of a drain to be spread upon the rolls, a supervisor should not refuse to spread the tax because in his opinion, the proceedings were irregular, and where he refuses to perform his official duty mandamus will issue to compel him to act.—*Scholtz v. Smith*, 119 M. 634.

Taxes and charges a lien on Dec. 1.

SEC. 40. (3863) The taxes thus assessed shall become at once a debt to the township, ward or city from the persons to whom they are assessed, and the amounts assessed on any interest in real property shall, on the first day in December, become a lien upon such real property, and the lien for such amounts, and for all interest and charges thereon, shall continue until payment thereof. And all personal taxes shall also be a lien on all personal property of such persons so assessed from and after the first day of December in each year, and shall take precedence of any sale, assignment or chattel mortgage, levy or other lien, on such personal property, executed or made after said first day of December, except where such property is actually sold in the regular course of trade.

Precedence of tax lien.

Township can, in suit by its supervisor, collect a personal tax due which the treasurer has failed to collect. The right of action conferred by this section is independent of that derived from Sections 55 and 56, providing for the collection of such delinquent taxes by the treasurer of the township upon warrant issued by county treasurer.—*Bangor v. Smith Transportation Co.*, 112 M. 601. Supervisor to prosecute in name of people, etc.—2331 C. L. '97. A municipality may institute suit to enforce the payment of taxes which are made a debt to the city by statute, and which the treasurer has failed to collect; and recovery may be had against the owner of the property for valid tax, notwithstanding a mistake was made in the name of the person to whom it was assessed.—*City of Menominee v. S. K. Martin Lumber Co.*, 119 M. 201.

In action for taxes assessed against personal property it is not necessary to show diligence upon the part of township treasurer if it appears that taxes were not collected.—*Township of Deerfield v. Harper*, 115 M. 678. See further for rulings in suits for taxes.

Taxes not a charge upon person or land prior to December, when for the first time the opportunity is offered or the duty arises to pay them.—*Harrington v. Hilliard*, 27 M. 271. Drain taxes a lien as soon as benefits are apportioned.—*Lindsay v. Eastwood*, 72 M. 336. A lien for city taxes in cities governed by special charter is fixed by such charter.—*Eaton v. Chesebrough*, 82 M. 214. Lien for taxes assessed in cities governed by Act 215 of 1895 is as provided in this section. Whether lien for village (corporation) taxes assessed under Act 3 of 1895 attaches when lands are returned to county treasurer after the expiry of warrant—2869 C. L. '97—or not until December 1st, *quere*.

In construing timber contract containing provision as to payment of taxes assessed: Held, that the mere listing of lands for purpose of taxation is not a completed assessment and that notice of release after listing in April and before the October meeting of the board of supervisors and the ascertainment of the amount to be assessed relieved vendee from payment of taxes thereafter assessed for said year upon said lands.—*Rothchild v. Begole*, 105 M. 388.

Purchasers at a void tax sale acquire no lien for amount paid for deed or for subsequent taxes in the absence of a statute transferring the State's lien.—*Croakery v. Busch*, 116 M. 288. Where land sold under claim of good title free from all incumbrances was burdened with tax lien, buyer can recover difference between value of premises with such a title and their worth with the title he received.—*Stockham v. Cheney*, 62 M. 10.

Purchaser of bank stock prior to December 1 takes it free from any lien for taxes.—*St. Johns National Bank v. Township of Bingham*, 113 M. 203.

Chattel mortgage does not transfer the legal title to the mortgagee, but affords a security merely.—*Wineman v. Electrical Mfg. Co.*, 118 M. 636.

Since taxes assessed against personal property become a debt to the township in which they are assessed and are enforceable only by such township in a suit at law, the township is not entitled to refuse to pay over the state and county's portion of taxes assessed against personal property, though delinquent and unpaid.—*City of Muskegon v. Muskegon County*, 123 M. 272.

The time when the lien will attach must be determined by the terms of the statute.—*Frederick Raynsford v. Theodore I. Phelps*, 43 M. 342.

A city may maintain assumpsit to collect personal taxes from the real owner, though the treasurer could not, because they were assessed in the name of a different person.—*City of Menominee v. S. K. Martin Lumber Co.*, 119 M. 201.

Suit cannot be brought by supervisor during the time the tax roll is in the hands of the town treasurer to collect the tax.—*Decatur v. Copley*, 10 D. L. N. 254.

Assessments on land cannot be made a personal claim in the absence of statutory provisions.—*City of Grand Rapids v. L. S. & M. S. Ry.*, 9 D. L. N. 30.

SEC. 41. (3864) Am. Act 262 of 1899. Before the supervisor or assessing officer shall deliver such roll to the township treasurer or city collector he shall carefully foot the several columns of valuation and taxes, and make a detailed statement thereof, which he shall give the clerk of his township or city, and said clerk shall immediately charge the amount of taxes to the township treasurer or city collector. The clerk of each city and incorporated village shall report to the clerk of their respective counties all taxes levied in their respective cities or villages, and not included in the general tax levy, on or before the first day of October in each year. The county clerk shall, within thirty days after the close of the annual session of the board of supervisors in October in each year, forward to the Auditor General, to be filed in his office, a statement showing the aggregate valuation of all property as assessed in such assessing precinct within the county during the current year. He shall include in such statement a detail of all taxes to be raised in the county for such year; also the amount of taxes not included in the general tax levy, reported to him by the several city and village clerks as above provided.

Assessor to foot roll.

Duties of township clerk.

City and village clerks to report municipal taxes.

County clerk to report to Auditor General.

Township is not estopped by settlement of township board with treasurer from recovering any balance in his hands and not included in such settlement: as when an excess has been levied and collected and treasurer had only been charged with amount stated in supervisor's warrant.—*Boardman v. Flagg*, 70 M. 372.

THE TAX ROLL.

SEC. 42. Am. Act 261 of 1897. (3865) The supervisor shall thereupon prepare a copy of the said assessment roll, with the taxes assessed as hereinbefore provided, and annex thereto a warrant signed by him, commanding the township or city treasurer to collect the several sums mentioned in the last column of such roll and to retain in his hands the amount receivable by law into the township treasury for the

Supervisor to annex warrant to tax roll.

Township
treasurer to
pay over
state and
county taxes.

Distress and
sale.

Lost roll.

Tax roll.

purposes therein specified, and to pay over to the county treasurer the amounts which shall have been collected for State and county purposes up to and including the tenth day of January next following, within three days thereafter, and the remainder of the amounts therein specified for said purposes, and account in full for all moneys received on or before the first day of March next following; and the said warrant shall authorize and command the treasurer, in case any person named in the assessment roll shall neglect or refuse to pay his tax, to levy the same by distress and sale of the goods and chattels of such person. The supervisor may make a new roll and warrant in case of the loss of the one originally given to the township treasurer; the copy of the roll with the warrant annexed, shall be known as "The tax roll."

When roll has come to assessor from board of supervisors properly certified he has no right unless from defect which renders the whole roll void to refuse to make out the tax roll and attach his warrant thereon. He is required to issue warrant in general form, and cannot notice or except individual cases.—*Clark v. Axford*, 5 M. 182. Supervisor without any action by electors or township board has no authority to add amounts for township expenses, and tax so levied is void, and may void entire township roll when not distinguishable from valid part.—*Lacey v. Davis*, 4 M. 140.

A supervisor executing a tax warrant is held to a knowledge of any illegality manifest on the face of the warrant.—*Atwell v. Zeinff*, 26 M. 118. But where taxes are certified to him in legal form, he performs only a ministerial duty in spreading them upon the roll and affixing his warrant, and in such case cannot be held liable.—*Wall v. Trumbull*, 16 M. 228. New warrant does not detract from protective force of the process.—*Bird v. Perkins*, 88 M. 28. Further as to warrant, see *Tweed v. Metcalf*, 4 M. 579; *Wisner v. Davenport*, 5 M. 501.

The tax roll is not admissible in evidence to show defective certification of assessment roll, as certificates required to assessment roll are no part of tax roll and not required to be copied thereon.—*Hecock v. Van Dusen*, 80 M. 359. See also *Redding v. Lamb*, 81 M. 318.

See Secs. 44, 87 and 99.

SEC. 43. (Am. by Act 28 Laws 1903) The supervisor of each township, on or before the fifth day of November in each year, shall notify the township treasurer of the amount of the State and county taxes as apportioned to his township, and such treasurer, on or before the twenty-eighth day of November, shall give to the county treasurer a bond running to the county in double the amount of State and county taxes, with sufficient sureties, to be approved by the supervisor of the township and the county treasurer, conditioned that he will pay over to the county treasurer, as required by law, all State and county taxes which he shall collect during his term of office and duly and faithfully perform all the other duties of his office. The county treasurer shall file and safely keep such bond in his office, and shall give to the township treasurer a receipt stating that he has received the bond required, which receipt the township treasurer shall deliver to the supervisor, on or before the first day of December. The supervisor, after the delivery of such receipt, and on or before the first day of December, shall deliver to the township treasurer the tax roll of his township.

Township treasurer shall receive all moneys belonging to township.—2353 C. L. '97. Shall give bond.—2354 C. L. '97. Shall keep true account.—2355 C. L. '97. Further as to bond of township treasurer.—2357-63 C. L. '97. Bond by surety company.—5196 e. s. C. L. '97. Sureties to justify.—159-161 C. L. '97. Action on bond.—10050 e. s. C. L. '97. Private suits on official bonds.—9795 C. L. '97. Township treasurer should be a party to his own official bond.—*Johnston v. Kimball Township*, 39 M. 187. Sureties upon township treasurer's bond for his second term who were not upon his bond for his first term, are not liable

for the default of their principal during his first term.—Paw Paw v. Eggleston, 25 M. 36. Sureties upon a city or county treasurer's bond are not liable in an action thereon for moneys not collected nor for moneys lawfully accounted for.—Berrien Co. Treasurer v. Bunbury, 45 M. 79. Filling vacancy in office of township treasurer.—2320 C. L. '97.

As to liability of sureties on official bonds and action thereon see Stevenson v. Bay City, 26 M. 44; Detroit v. Weber, 26 M. 284; 20 M. 24; Perley v. County of Muskegon, 32 M. 132; Johnston v. Kimball Township, 39 M. 187; Detroit v. Houghton, 42 M. 459; Rice v. Sidney Township, 44 M. 37; Berrien County Treasurer v. Bunbury, 45 M. 79; Marquette County v. Ward, 50 M. 174; Township v. Kirsten, 72 M. 1; Village of Evart v. Postal, 86 M. 325; Township of Crystal Lake v. Hill, 109 M. 246; Cheboygan County v. Erratt, 110 M. 156; Village of Allegan v. Chaddock, 119 M. 688; Montmorency Co. v. Putnam, 122 M. 581.

A township treasurer in the collection of the county tax is the agent of the county, and the county has a right of action upon his bond for money so collected and not accounted for, but no right of action against the township for its recovery.—Hart Township v. Oceana Co., 44 M. 417. A treasurer who has received state and county taxes is required to pay the sums received over to the county treasurer in the absence of legal protest from the tax payers and cannot retain it on his claim that the collection was illegal or irregular.—Berrien County Treasurer v. Bunbury, 45 M. 79.

The certificate of equalization by the chairman of the board of supervisors is no part of the assessment roll and need not be copied into the tax roll.—Boyce v. Sebring, 66 M. 210. The tax roll must be an accurate copy of the assessment roll without addition or deduction. Public policy will not permit of any tampering with the assessment roll after it is equalized and completed and certified as required by law and no description can be added or valuation be increased.—Weston v. Monroe, 84 M. 341. The power of the supervisor over the collection (tax) roll terminates when in regular course it has passed into the hands of the treasurer for collection; and any act of his thereafter in altering the roll is not an official one, but private and personal. Where supervisor after roll has been delivered to the treasurer drew a pen across the figures therein and inserted other figures in lieu thereof, held that a seizure of chattels to satisfy the amount set opposite a tax-payer's name, which had been thus changed is not justifiable; and is immaterial that by the change the amount was made less instead of greater. It is essential that the collection (tax) roll and the original (assessment roll) on file in the supervisor's office should correspond; and no lawful change can be made in the former unless sanctioned by the state of the latter, or so as to cause a substantial variance between the two.—Ferton v. Feller, 33 M. 199. Supervisors cannot bring their work to a successful completion until they have affixed to the tax roll a good and sufficient warrant. An unsigned and undated warrant is invalid.—Westbrook v. Miller, 64 M. 129.

During successive years there have been many changes in the form of warrant issued to supervisors and other assessors, and for this reason no form of warrant should be used except that last issued by the Auditor General or a form in full accord therewith.

Collector is not responsible beyond the amount of taxes actually received by him for the moneys called for by a tax roll to which no warrant is attached empowering him to enforce payment. He must have in his hands the statutory means for collection before he can be in default for not collecting.—Weimer v. Bunbury, 30 M. 201. Time for delivery of warrant is directory.—Cooley on Taxation 428.

OF THE COLLECTING OF TAXES.

SEC. 44. (3867) On receiving such tax roll, the township treasurer or other collector shall proceed to collect such taxes. The township treasurer shall remain in his office at some convenient place in his township, village or city on every Friday in the month of December thereafter, from nine o'clock a. m. to five o'clock p. m., to receive taxes: *Provided, however,* That he shall receive taxes upon any week day when they may be offered, and on all sums voluntarily paid before the tenth day of January of the succeeding year, he shall add one per cent for collection fees, and upon all taxes paid on or after said tenth day of January he shall add four per cent. In case he may be apprehensive of the loss of any personal tax assessed upon his roll, he may proceed to enforce its collection at any time, and if compelled to seize property or bring suit in December, may add four per cent for collection fees, and when taxes are assessed on property occupied by tenant or tenants paying rental

Township treasurer to collect taxes.
Treasurer's office.

Proviso.

Collection fees.

In case of apprehension of loss.

Liability of tenant.

therefor, and he is assessed as occupant of said premises, the said tenant or tenants shall be liable for the taxes assessed on said property after the time said tax roll is delivered to the township treasurer or other collecting officer for the year, but not for more of the same than the amount of the rental may be while said tax roll is in his hands and which becomes due to the owner during such period, and may be collected in the same manner as provided for collecting the same from persons owning and occupying their own property; and said collecting officer shall notify all such persons occupying rented property, or so far as he may know of the same, as soon as the tax roll is delivered to him, by written notice, and shall note said notice and the date thereof against the description of said property on the roll.

Collector to notify tenant.

Duty of women endowed with land to pay taxes thereon.—*Rea v. Rea* 63 M. 268. Discharge of insolvent debtor does not discharge taxes.—9644 C. L. '97. The claim for personal tax stands no better or other chance against the estate of an insolvent than the claim of an individual.—*Lyon v. Receiver of Taxes*, 52 M. 276. Trustee to whom conveyance has been made of stock of goods, book accounts, etc., and who agrees to pay creditors as moneys are received, held to have properly paid taxes upon the stock of goods.—*Tanner v. Page*, 106 M. 155. Collection of taxes against bridge company.—6638 C. L. '97.

Where lands are occupied and assessed to owner or occupant it becomes a duty which the person assessed owes to the State to make payment.—*Blackwood v. Van Vleet*, 30 M. 118. Tenant is abundantly protected by being allowed to pay the taxes and set them off against his rent. But may not, as against ground rental, off-set taxes levied on property tenant has himself added to the realty.—*Williams v. Towl*, 65 M. 204. See Sub. 11, Sec. 8. Taxes paid in advance of the time payment can be enforced are voluntary payments, and cannot be recovered without statutory permission.—*Cox v. Welcher*, 68 M. 263.

Collector has no right to receive in payment of tax a draft of his creditor upon himself. Taxes are due not to him, but to the public, and claims against him are not a legal tender for or off-set against taxes.—*Elliott v. Miller*, 8 M. 132. Treasurer has no authority to receive note in payment of taxes and township will not be bound thereby, but collection of the tax may be enforced at any time during life of treasurer's warrant.—*Turnbull v. Township of Alpena*, 74 M. 621. While treasurer may not accept note in payment of taxes he violates no public trust if he makes a loan of his private funds and applies the loan in payment of the borrower's taxes.—*Hatch v. Reid*, 112 M. 430. Not competent for township treasurer to receive sawlogs in payment of taxes and bind the township by so doing.—*People v. Seeley*, 117 M. 263. If he receives anything except what the law authorizes him to receive and receipts for the taxes he must make good the amount.—*Jones v. Wright*, 34 M. 371.

Whenever any check or bank draft shall be tendered in payment of any debt, taxes or other obligation due to the state or to any municipality therein, such check or draft shall operate as a payment made on the date said check or draft was received and accepted by the receiving officer, if it shall be paid on presentation without deduction for exchange or cost of collection: Provided, however, that no receiving officer shall be required to receive in payment of any debt, taxes or other obligation collectable or receivable by him any tender other than gold or silver coin of the United States, United States treasury notes, gold certificates, silver certificates or national bank notes.—1179 C. L. '97, Am. Act 288, 1899. Draft or check should be presented for payment within a reasonable time. No delay is reasonable beyond that which may be fairly required in the ordinary course of business without special inconvenience to the holder, or by the special circumstances of the case.—*Phenix Insurance Co. v. Gray*, 13 M. 191.

The law imposes upon a life tenant and his grantees the duty of paying the taxes on the land.—*Jeffers v. Sydnam*, 129 M. 440.

County and township treasurers required to pay into state and county treasuries, as the case may be, the same description of funds which they shall have received.—1180 C. L. '97.

INJUNCTION TO RESTRAIN WASTE: When any person, company or corporation shall neglect or refuse to pay any tax assessed on the lands of such person, company or corporation within the time specified by law, the township treasurer shall be entitled to an injunction to restrain waste on any of such lands upon which the taxes shall remain unpaid when it shall appear that such lands are chiefly valuable for the timber being, standing or growing thereon. And any circuit judge or circuit court commissioner of the county in which such lands are situated may, on the application of such township treasurer, make an order restraining any person from committing waste thereon.—3979 C. L. '97. Act applies only to wild lands and treasurer is made agent of the State to commence suit, which cannot be done until the

expiration of the time specified by law for the payment of the taxes.—Caldwell v. Ward, 83 M. 13. But a bill may be filed upon refusal of payment at any time after the taxes can be lawfully demanded even before return of tax roll; but the refusal must have been positive and unequivocal to pay the whole or some part of the tax.—Caldwell v. Ward, 83 M. 378. Not intended that the imperative mandate of the statute should be defeated by affidavit that tax could be collected by other process or that owner did not intend to commit waste within given period or that if he should cut timber intended to there would be enough value left to pay the taxes. Where township tax alone claimed illegal there can be no hardship in injunction, as this tax can be paid under protest and rights preserved thereby.—Rossman v. Adams, land constitutes waste and is sufficient in itself in the absence of denial to rights of complainant in bill filed to restrain commission of waste on the land constitutes waste and is sufficient in itself in the absence of denial to justify the inference that defendant is liable to continue to commit waste and to authorize injunction.—Webster v. Peet, 97 M. 326. In Rossman v. Adams, Mich. Mandamus Cases, 807, writ was granted to compel circuit court commissioner to grant injunction.

See Secs. 100, 117.

SEC. 45. (3868) All taxes shall be collected by the several township and city treasurers or collectors, before the first day of March, in each year.

Collection to be before March 1.

Supersedes provision of Sub. 12, Sec. 2484 C. L. '07, for extension of time for collection.

The Wayne county treasurer collects state and county taxes assessed in the city of Detroit, instead of the city treasurer.—Act 378. Local Acts of 1879. Township and city treasurers or collectors have no authority to collect taxes after the expiration of their warrants, and receipts given by them for taxes thereafter cannot be considered as evidence of payment.

SEC. 46. (3869) For the purpose of collecting the taxes remaining unpaid on the tenth day of January, the said treasurer shall, thereafter during that month, call personally upon each person liable to pay such taxes, if a resident of such township, or at his usual place of residence or business therein, and demand payment of the taxes charged against him. If such person is not a resident of the township, but resides within the county, or an adjoining county, and his residence is known to the treasurer, he shall make such demand either personally or by mail. In cases of companies or corporations demand may be made at the principal or other office of such company or corporation, or by mail directed to such corporation or company, or its principal officer at its usual place of business. In cities where some special provision is made for demand or collection of taxes, the collector or treasurer shall comply with such special provision, otherwise be bound by the provisions of this act. If demand is sent by mail, the amount of the tax shall be stated and the place and time where and when it may be paid. He shall give a receipt for every tax paid, and shall enter in ink the fact of payment, and the date thereof upon his tax roll. In case of taxes assessed upon the shares of the capital stock of any bank he shall call upon the cashier of such bank and demand payment thereof, and thereupon it shall be the duty of such cashier to pay the same, and charge the amount so paid against the shares of stock so taxed.

Personal demand.

Demand on companies.

Charter provisions.

Demand by mail.

Receipt and entry.

Tax on bank shares.

Demand by mail, proof of.—Clark v. Adams, 33 M. 159. Question of demand under this section and of collection from personal property are foreclosed by decree.—Hughes v. Jordan, 118 M. 27; Hooker v. Bond, 118 M. 255; Shefferly v. Auditor General, 120 M. 155.

Collector's receipt for taxes is an official paper and evidence of the payment of the tax in suits between third parties.—Johnstone v. Scott, 11 M. 282. Stub receipt books are public records.—Burton v. Tuite, 78 M. 363; 80 M. 218. The lawful acts of a defacto tax collector as such are valid whether he was strictly entitled to the tax roll or not.—Stockle v. Silsbee, 41 M. 615. The pay-

ment of taxes may be proved by parol. Although the receipt may be used as primary evidence this does not preclude other proof.—*Hammond v. Hannin*, 21 M. 374.

Where a city charter provides for the collection of personal taxes by process from the receiver of taxes and by levy upon personal property, an action by the city for such taxes will not lie except as specially provided for.—*Detroit v. Jepp*, 52 M. 458. Legislature shall restrict power of taxation of cities and villages.—Sec 13, Art. XV, Const.

It is the duty of an executor to pay the taxes upon real estate of the decedent in his possession pending the settlement of the estate; and where available funds are insufficient he may obtain from probate court authority to raise money by mortgaging the property.—*Long v. Landman*, 118 M. 174. Taxes levied on mining or manufacturing companies whose charters have expired shall be paid out of the assets by the receiver.—7099 C. L. '97.

As between vendor and purchaser under a warranty deed the obligation is upon the vendee to pay the taxes for the current year where the conveyance was prior to December 1st, and upon the vendor when it was subsequent.—*Harrington v. Hilliard*, 27 M. 271. Where grantee voluntarily pays taxes which was a lien upon land when he received his deed and brings suit on covenant against incumbrances, grantor may show as a complete defense the invalidity of the tax.—*Balfour v. Whitman*, 89 M. 202.

Where treasurer receives from tax-payer worthless highway orders in part payment, receipting the taxes and returning them as paid, the taxes are thereby paid, and any suit brought for the amount of the order must be a private controversy between the treasurer and the party who paid them to him.—*Staley v. Columbus*, 36 M. 38.

Neither can the petitioner take advantage of the fact, if it were a fact, that the township treasurer could have collected the taxes out of personal property within the township.—*Nester v. Church*, 121 M. 81; *Citing Muirhead v. Sands*, 111 M. 487; *Auditor General v. Sparrow*, 116 M. 574; *Ball v. Ridge Copper Co.*, 118 M. 7; *Berkey v. Burchard*, 119 M. 101.

The authority of the township treasurer under this section is exclusive during the period fixed by the statute, and suit cannot be instituted by the supervisor while the tax warrant is in the hands of the township treasurer.—*Tp. of Decatur v. Copley*, 10 D. L. N. 234.

VOLUNTARY PAYMENT: Where any person shall voluntarily and without protest pay to the officer demanding the same and having process for the collection thereof, any sum purporting by such process to be payable by such person for taxes assessed by virtue of any law of this State, neither the officer so collecting nor the officer who issued process nor the officer who made the assessment shall in consequence of such payment be liable in any action on account of any defect of invalidity in the law under which the proceedings are had, or of any defect or irregularities in the said proceedings or in such warrant or process.—3982 C. L. '97. Acquiescence in an assessment and payment of the tax estops the tax-payer from afterwards complaining of it.—*Wattles v. Lapeer*, 40 M. 824. A purchaser from one whose land has been irregularly assessed is not obliged to pay the tax on account of his vendor nor is he personally liable to seizure of his goods for failure to pay; but if he pays without making known his objections to the proper auditing body before the amount becomes a lien on the land, the payment must be considered voluntary.—*Louden v. East Saginaw*, 41 M. 18. See also *Attorney General v. Burrell*, 31 M. 24. Taxes subsequently paid by the holder of a void tax title are voluntary payments and cannot be recovered from the owner of the lands.—*Croskery v. Busch*, 116 M. 288.

Payment before officer has authority to enforce collection is voluntary.—*Peninsula Iron Co. v. Crystal Falls*, 60 M. 79. Money voluntarily paid in the reasonable belief that it is due and after investigation or the opportunity therefor, and without fraud on the part of the recipient cannot be recovered as paid under misapprehension.—*Wheeler v. Hathaway*, 58 M. 77.

Payment is voluntary and therefore not recoverable, where the owners of the property appeared at a tax sale, and without protest took part therein, and bid off the property.—*H. M. Loud & Sons Lbr. Co. v. Vienna Twp.*, 120 M. 882.

INVOLUNTARY PAYMENT: Payment to a public officer in compliance with a demand accompanied by a threat of immediate and actual enforcement is in no sense a voluntary payment; and when the claim is unlawful and made under color of office an action lies for its recovery.—*First National Bank of Sturgis v. Watkins*, 21 M. 483. Action for money had and received will lie against the city to recover money involuntarily paid upon an illegal assessment where the city has failed by the irregularity of its proceedings to obtain any jurisdiction over the subject matter of the assessment. Payment made upon an illegal assessment under threat of immediate seizure and sale of the property to satisfy the same is not voluntary.—*Nickodemus v. City of East Saginaw*, 25 M. 456. Payment made on the demand of an officer under legal process is not voluntary although made before any levy. A party is not bound to await an arrest or seizure, but may assume that the officer will execute the process on which he made demand.—*First National Bank of Sturgis v. Watkins*, 21 M. 483. See also *McKee v. Campbell*, 27 M. 497. No protest is necessary in such case to authorize an action to recover back the money illegally demanded; but where payment is made without protest no interest can be claimed until after demand or suit.—*Atwell v. Zeluff*, 28 M. 118. Payment of a personal tax under protest and to avoid the immediate seizure of goods is not a voluntary payment and suit can be brought against the collector to recover it while it is in his hands.—*Lyon v. Receiver of Taxes*, 52 M. 271. The attempt to compel payment when there is no legal burden is regarded as a legal injury, and payment made to avoid the seizure and sale of property to pay the wrongful claim can be recovered as an extorted

sum for which there was no consideration.—Specific protest is not required where payment is involuntary and made under legal duress.—*Cox v. Welcher*, 68 M. 263. Demand of payment by an officer having a warrant involves an implication that payment will be enforced if not made, and the authorities do not require an actual levy or proof that a levy could be made on tagible property. If the party yields to the legal menace it cannot be presumed in favor of the exactor of payment that he could have found nothing to levy on or that there was no means of enforcement.—*Babcock v. Township of Beaver Creek*, 84 M. 601.

As between mortgagees, payment of taxes to protect the several interests could not be considered a voluntary payment, as it inures to the benefit of the first mortgagee.—*Noeker v. Howey*, 119 M. 626; *Giff v. Howey*, 119 M. 630.

PAYMENT BY CASHIER: Mandamus will not lie to compel bank cashier to pay taxes assessed against stockholders, the remedy provided by the act for the collection of such taxes being clear and specific.—*Eyke v. Lange*, 90 M. 592; 104 M. 26. Section imposes upon bank cashier an official and not a personal duty. Upon demand it is duty of bank to pay the tax, and if performance must be enforced by law, suit should be brought against bank and not against cashier.—*Muskegon v. Lange*, 104 M. 19. Where personal property is sold or mortgaged for its full value before personal taxes thereon become a lien thereon the tax cannot be collected of the purchaser or mortgagee. In case of bank stock collection cannot be made of the bank as it could not reimburse itself against the stock, which was not after the sale the property of the person assessed and liable for the tax. Suit to enjoin collection from bank not necessary as the facts can be interposed as a defense in any action to collect of the bank.—*St. Johns National Bank v. Bingham Township*, 113 M. 203.

See Sec. 53.

SEC. 47. Am. Act 229 of 1895. (3870) Am. Act 215 of 1899. If any person, firm or corporation shall neglect or refuse to pay any tax assessed to him or them, the township or city treasurer, as the case may be, shall collect the same by seizing the personal property of such person, firm or corporation, to an amount sufficient to pay such tax, fees and charges for subsequent sale, wherever the same may be found in the State, and from which seizure no property shall be exempt. He may sell the property seized to an amount sufficient to pay the taxes and all charges, in the place where seized, or in the township or city of which he is treasurer, at public auction, on giving public notice of the same at least five days previous to the sale, by posting written or printed notices in three public places in the township, village or city where the sale is to be made, which sale may be adjourned from time to time if he shall deem the same necessary; and in case property shall be seized and advertised as herein directed, during the life of the warrant, the sale may take place at any time within six days after the expiration thereof. If it becomes necessary to sell personal property which brings more than the amount of taxes and charges, the balance shall be returned to the person, firm or corporation from whose possession the property was taken, except as hereinafter provided. If the property so distrained cannot be sold for want of bidders, and in such cases only, the treasurer shall return a statement of the fact, and such tax shall be returned as unpaid. The township treasurer, if otherwise unable to collect a tax on personal property, may sue the person, firm or corporation to whom it is assessed, in the name of the township, village or city, and garnishee any debtor or debtors of such person, firm or corporation. The tax roll shall be prima facie evidence of the debt sought to be recovered: *Provided*, That when any person having possession of the personal property of any other person, firm or corporation shall be assessed for such property and shall be obliged to pay the taxes thereon, such person, firm or corporation so paying the

Seizure of personal property for taxes.

Sale of property seized.

Notice of sale.

Surplus proceeds.

Return of unpaid taxes.

Collection by suit.

Tax roll evidence of debt.

Proviso.

Levy for
taxes on land.

Conditions
of release.

Land deeded
to state.

Expense, how
paid.

taxes, may recover of the person, firm or corporation for whose benefit the taxes were paid, the money so paid, with the interest thereon, in an action of assumpsit: *Provided further*, That in case where levy is made, as hereinbefore provided, for taxes assessed upon land, the levy shall be released if, within ten days after it is made, the persons having the title to said land shall deliver to the Commissioner of the State Land Office a deed conveying the land to the State as to an individual, free from all mortgages or liens whatsoever, and in such case the taxes thereon shall be returned as in the case of other taxes unpaid upon lands, and the Auditor General shall charge back to the county all local taxes on said land and shall cancel the State taxes thereon; and in case land is so deeded to the State it shall thereafter be subject to all the provisions of law governing lands deeded to the State by the Auditor General under the provisions of section one hundred twenty-seven of act two hundred six of eighteen hundred ninety-three as amended: *Provided further*. That in case the land is deeded to the State as herein provided the Board of State Auditors shall audit and allow the actual expenses of the township treasurer incurred in making the levy on said land and compensation therefor at two dollars per day, the account therefor to be certified by the Commissioner of the State Land Office, and the amount thereof shall be paid out of the general fund of the State.

Levy on crops.—10321 C. L. '97; sale of.—10327 C. L. '97. Levy on shares.—10335-7 C. L. '97. See *Newberry v. D. & L. S. Iron Co.*, 17 M. 141. Sale of perishables.—10360 C. L. '97. Resisting officer.—11327 C. L. '97. As to the application of 10318 C. L. '97 to a levy on property upon which there is a chattel mortgage in view of the provision of this section that no property shall be exempt from seizure for taxes—*quere*.

Levy cannot be made after return day.—*Blair v. Compton*, 33 M. 424. Where lands are assessed as non-resident ("or owner unknown") collector has no authority to levy upon any property to satisfy a tax so assessed.—*Tweed v. Metcalf*, 4 M. 579. An officer's release of a levy discharges it.—*Weber v. Henry*, 16 M. 399. A levy effected by committing a trespass is bad.—*Bailey v. Wright*, 39 M. 96. The power of the township treasurer to collect the taxes or to sue therefor is confined to the time the warrant is in force.—*Putnam v. Township of Flie Lake*, 45 M. 125. A levy upon personal property for collection of a tax is *prima facie* a satisfaction of the tax.—*Henry v. Gregory*, 29 M. 68. See *Farmers and Mechanics' Bank v. Kingsley*, 2 Douglass, 379. Growing crops are a part of the realty, but for the purpose of levy and sale on execution are treated as personalty.—*Preston v. Ryan*, 45 M. 174.

The tax roll is itself as complete and adequate as an execution on a judgment would be if there are goods and chattels within the treasurer's jurisdiction.—*Staley v. Columbus*, 36 M. 38. Same rule must be applied to sale by town treasurer to satisfy tax as to judicial sales. So held where two horses not matched and either of which was worth more than the tax, were sold together and not offered separately.—*Leaton v. Murphy*, 78 M. 77. Exemption from execution under 10322 C. L. '97 does not release property from liability to seizure and sale for taxes for which its owner is liable.

No property of the person liable for a tax is exempt from seizure and sale for taxes. If the provisions of this section were fully observed by collecting officers there would be much less unpaid taxes returned.

Where the supervisor's warrant is fair on its face township treasurer is not personally liable for enforcing the collection of an excessive tax.—*Byles v. Genung*, 52 M. 504. But warrant goes only to extent of protecting him from personal liability as trespasser or wrong-doer.—*LeRoy v. East Saginaw City Railway*, 18 M. 233. Collector is protected by process that is fair on its face against irregularities except his own.—*Bird v. Perkins*, 33 M. 28. A tax assessment is in the nature of a judgment and cannot be assailed for fraud or irregularity in a suit against an officer who holds process fair on its face for enforcing a tax based upon it.—*Moss v. Cummings*, 44 M. 359. Collector not liable in trover for property seized under tax roll and warrant fair upon their face; but roll and warrant are not fair on their face when for a tax levied under an invalid law.—*Mogg v. Hall*, 83 M. 576. Collector is not liable for value of chattels seized for taxes under warrant fair on face even though demand for return thereof be made before sale.—*Curtiss v. Witt*, 110 M. 131. A warrant addressed to the "treasurer of the township of," signed by the supervisor of St. Joseph township and annexed to the tax roll of that township is not fatally defective—

First National Bank of St. Joseph v. Township of St. Joseph, 46 M. 528; Auditor General v. Stiles, 83 M. 460. Further as to warrant see Clark v. Axford, 5 M. 182.

A law prescribing who shall be liable for the payment of taxes and whose property may be levied on therefor impliedly forbids the collector to seize the property of others or by act or omission make the tax a charge on it, and the owner is at liberty to buy and sell in reliance on the officer's implied duty towards him, and to understand that the latter is not protected by his commission unless he keeps within the powers given by it.—Raynesford v. Phelps, 43 M. 342. A mere sale of another's hay in the mow under a tax warrant does not amount to a conversion where the owner did not acquiesce and his possession was not disturbed. A sale of a growing crop might be different.—Mills v. Van Camp, 41 M. 645. Assessment to firm which has been succeeded by corporation is valid against the corporation and it may be enforced as such.—Petrie Lumber Co. v. Collins, 66 M. 64. Taxes paid under protest after seizure of property, collector's warrant having expired before seizure may be recovered.—Phillips v. New Buffalo, 68 M. 217. A note taken by a township treasurer in his own name on the sale of property for taxes is void in his hands on the ground of public policy.—Chapman v. Remington, 80 M. 552. After levy and agreement with city authorities, check for amount was deposited with city treasurer and amicable suit instituted. Held, payment was involuntary.—Gebhart v. East Saginaw, 40 M. 336.

Treasurer seized personal property belonging to plaintiffs to satisfy taxes levied upon real estate not owned by nor listed to them, which they paid under verbal protest to secure a release of their property and brought suit against township to recover, prior to which treasurer had paid State and county taxes to county treasurer. Held, payment was involuntary: that treasurer's action was not an attempt to collect an illegal tax assessed against plaintiff's property or against them personally, nor did his warrant direct or authorize him to demand or enforce collection against them; that the taxes were not assessed to them or against their property and they had no occasion to appear before town board in relation thereto nor to deliver to treasurer statutory protest; that the township by its officers coerced payment without any claim against plaintiffs or their land, and without even color of authority to take plaintiff's money, and that the fact of payment to the county treasurer of the State and county taxes thus collected was immaterial to the issue; that the section providing for bringing suit within thirty days after payment of tax under protest does not apply to this case, and the defendant stands in no more favorable position than if it had received plaintiff's money under a threat to take or sell their property under pretense of legal authority so to do without any assessment roll or warrant whatever.—Babcock v. Township of Beaver Creek, 65 M. 479. Township is liable in action of assumpsit to recover back money illegally collected by the treasurer in his official capacity for taxes illegally assessed.—Daniels v. Watertown, 55 M. 376.

Personal property of a railroad is liable to seizure and sale for unpaid taxes and the company's coal supply is not exempt as a part of the entirety. "Person" includes bodies corporate and politic.—C. & N. W. Ry. Co. v. Ellison, 113 M. 30. Where personal property has been levied upon to satisfy tax on bank stock which is claimed to be illegal and void the remedy at law is inadequate. An action of trover for the value of the property seized would raise the question or complainant might pay the amount of the tax under protest and test its validity in an action to recover back the amount paid.—Hagenbuch v. Howard, 34 M. 1: see also Mears v. Howarth, 34 M. 19. Where land was assessed to one corporation the action of township treasurer in seizing property of another corporation who owned the property assessed held lawful (corporation known by both names).—Iron Star Co. v. Wehse, 117 M. 487. Goods assigned for benefit of creditors are exempt from seizure to satisfy taxes against the assignor.—Lyon v. Receiver of Taxes, 52 M. 271. But the assignment must have been made before the first day of December in the year of assessment; see Sec. 40.

Where one, on the day fixed for the sale of his property for taxes, sent his representative to attend the sale, who, without protest, took part in the bidding and upon the property being sold to him informed the treasurer that if he would go to the office of the owner in another township he would receive the amount of the bid, such owner could not, after paying the treasurer as agreed, but under protest, claim that the payment was involuntary and maintain an action to recover the amount so paid.—Loud & Sons Lumber Co. v. Township of Vienna, 120 M. 382.

REPLEVIN: No replevin shall lie for any property taken by virtue of any warrant for the collection of any tax, etc.—748, 10651 C. L. '97, does not apply where property seized belongs to one having no relation to the tax assessed.—Travers v. Inslee, 19 M. 98. Nor where there could have been no valid tax levied.—LeRoy v. East Saginaw City Railway, 18 M. 233. Nor where there was no jurisdiction to levy the tax.—McCoy v. Anderson, 47 M. 502. But the mere fact that the tax is invalid is not sufficient to authorize replevin.—Hill v. Wright, 49 M. 230. Prohibition applies only where valid tax might have been imposed.—LeRoy v. East Saginaw City Railway, 18 M. 233. Applies only to cases where the property seized is that of the person or of one in privity with the person against whom the tax was assessed.—Travers v. Inslee, 19 M. 98.

Replevin will not lie for property seized by virtue of a writ, fair on its face, when it appears that the property seized is subject to seizure on such process if valid.—Northwestern Co. v. Scott, 123 M. 357.

Property being rightfully assessed, replevin will not lie.—*Hood v. Judkins*, 61 M. 575. But lies for property seized to satisfy a void tax.—*Boyce v. Cutter*, 70 M. 539. Does not preclude replevin by one who is a stranger to the tax and not in privity with the person assessed. Purchaser of personal property before lien for taxes assessed thereon has attached is not in privity with the vendor so as to prevent his bringing replevin against the collector who has seized the property for such taxes.—*Tousey v. Post*, 91 M. 631. Replevin of property seized to satisfy a void tax is a proper remedy.—*Lantis v. Reithmiller*, 95 M. 45.

Where a tax levy inflicts an injury cognizable by law, the injured party must seek redress otherwise than by an action of replevin for property seized for the tax. The statutory provision against bringing replevin in case of seizure for taxes cannot be defeated by a mere claim that the tax is invalid if it is apparently regular; and where replevin is brought it is proper on quashing the writ to give judgment for defendant for the amount of the tax lien.—*Hill v. Wright*, 49 M. 229. Replevin will not lie for saw logs seized to satisfy taxes assessed in town where logs were liable for assessment, which assessment appears to be regular and valid.—*Hill v. Graham*, 72 M. 659.

Replevin will not lie where tax roll and warrant appear regular upon their face.—*West Michigan Lumber Co. v. Dean*, 73 M. 459; *Thayer Lumber Co. v. Dean*, 73 M. 463; *Boyce v. Peterson*, 84 M. 490; *Fletcher v. Post*, 104 M. 424; *Forster v. Brown*, 119 M. 86. Even though claimed to be held by virtue of a county treasurer's warrant, the issuance of which was upon an insufficient return by a township treasurer.—*Boyce v. Stevens*, 86 M. 549. The vendee in a bill of sale made without consideration and for the express purpose of defeating the collection of taxes upon the goods which remained in the possession of the vendor cannot maintain replevin for the property described in such bill and which is seized for taxes.—*Gray v. Flinn*, 96 M. 62. Replevin will not lie for the recovery of property seized for a tax assessed upon a piece of unoccupied land which was assessed in one parcel to the owner of the record title, a part thereof having been transferred to a son by an unrecorded deed, the property seized belonging to the father.—*Scott v. Wheland*, 96 M. 624. Regularity of proceeding anterior to a warrant cannot be determined by trover or replevin.—*Curtiss v. Witt*, 110 M. 131. Validity of tax levied in pursuance of law cannot be tested in replevin.—*Roberts v. Denio*, 118 M. 544. One in rightful possession of personal property as lessee can maintain replevin in case such property is seized to satisfy taxes assessed against the lessor.—*Whittaker v. Fuller*, 96 M. 141. Husband may maintain replevin against an officer for wife's clothing purchased with his money or upon his credit and seized upon a tax warrant for taxes assessed against wife's separate property.—*Smith v. Abair*, 87 M. 62.

SUIT: Indebitatus assumpsit is the proper form in which township treasurer may bring suit in the name of the township for taxes, the count explaining the subject matter of the debt; but a special declaration is not requisite.—*Putnam v. Township of Effe Lake*, 45 M. 125. In suit for collection of taxes on personal property collector may testify to the fact and time of making his return. The production and identification of the tax roll and of the assessment and levy of such a tax thereon against defendant makes a prima facie case. In suit based upon county treasurer's warrant, collector must show that he made verified return of unpaid personal property taxes.—*Muskegon v. Martin Lumber Co.*, 86 M. 625. Collector may sue for taxes on personal property, but as to real property the remedy as provided by statute must be resorted to.—*Sturgis v. Flanders*, 97 M. 546.

Treasurer has no authority to bring suit after his original or supplemental warrant has expired. Suit can only be resorted to when person assessed has no property that can be reached under the warrant or when he resides beyond the treasurer's jurisdiction.—*Port Huron v. Potts*, 78 M. 435. Personal tax assessed to executors may be recovered in an action against executor though he has distributed the estate since the assessment.—*Orion Township v. Axford*, 112 M. 179. Judgment for personal tax may include interest from time it became due and payable. Tax collector called upon delinquent tax-payer after the expiration of his warrant for the tax assessed upon personal property which he promised to pay. Held to be a sufficient demand of payment to warrant commencement of suit for its collection after its return to the county treasurer and the issuance of a new warrant which was still in force and which suit is not prematurely brought.—*Grand Rapids v. Welleman*, 85 M. 234. Mandamus will not be granted to review an order of the trial court in attachment proceedings instituted to enforce collection of taxes denying a motion to quash based upon the merits and accompanied by a stipulation of facts.—*Martin Lumber Co. v. Menominee Circuit Judge*, 116 M. 354. Action for delinquent personal taxes will not lie except against the person assessed.—*Township of Laketon v. Akeley*, 74 M. 695.

During the period fixed by this section the authority of the town treasurer is exclusive, and suit cannot be instituted by supervisor during this time.—*Decatur v. Copley*, 10 D. L. N. 254.

There is no distinction between the right of the treasurer to levy for special assessments and for other taxes.—*Mich. Lake Superior Power Co. v. Atwood, City Treasurer*, 126 M. 651.

See Secs. 40, 48, 49.

Collector's
fee for sale.

SEC. 48. (3871) In case of a distress and sale of goods and chattels, for the payment of any tax, the treasurer or other collecting officer may also collect on such sale one dollar and fifty cents over and above the tax, as his fees for making such sale, which fees and percentage hereinbefore provided shall

be in full for his services in collecting such taxes; and in case payment of such tax shall be made after the distress and before the sale, it shall be lawful for such treasurer or collecting officer to require the payment of one dollar and fifty cents as his fee for making such distress, and to enforce payment of the same, if need be, by making sale notwithstanding the tax shall have been paid. And whenever any personal property having been assessed to any person in any township or ward in this State shall be removed therefrom before the taxes assessed thereon shall be collected, and there being no other personal property sufficient in said township or ward whereon the treasurer or other collecting officer can levy and collect said taxes, or any of them, he shall have full power, and it shall be his duty to make a statement, duly certified by him to be correct and true, showing that personal property has been assessed to such person, naming him, the valuation thereof, the various taxes thereon, and the total thereof, as appears from the roll in the hands of such treasurer, and that such property has been removed from such township, ward or city since the assessment thereof, and that the taxes or some portion of them has not been paid; which statement shall be witnessed and acknowledged in the same manner as deeds of real estate are acknowledged, and shall be received in all courts and other places as evidence of the facts therein contained, without proof of its execution, and shall be *prima facie* evidence of the validity of the tax therein named against the person therein named, and shall be full and ample authority to the treasurer or other tax collector to whom it shall be sent to levy and collect the same in the same manner as other personal taxes are collected by him when spread upon his own roll. Such statement may be sent to the township or city treasurer, or other collecting officer of any township or city in this State, where the person against whom such assessment was made may have property, and the treasurer, or other collecting officer to whom such statement shall have been transmitted, shall, upon the receipt of the same, proceed to collect said taxes out of any property belonging to the owner of such property so taxed as aforesaid, within his jurisdiction, liable to be seized for taxes, together with double collection fees therefor, and the further sum of twenty-five cents to defray the expense of transmitting the taxes so collected as hereinafter provided, and shall give his receipt therefor. The said treasurer, or other collecting officer, shall thereupon transmit the taxes, and one-half of the collection fees as aforesaid collected, to the township treasurer, or other collecting officer, from whom he received such statement, and the latter shall, upon the receipt of said taxes and collection fees, mark the said taxes in ink as paid upon his tax roll, and the date of the receipt of the same, retaining the collection fees so received as aforesaid, as his fees in the matter of the collection of said taxes. Executions issued upon judgments rendered for any tax, may be levied upon any property, without exemption, the same as though seized for sale under war-

Sale for fee.

Collection of taxes on personal property removed.

Valid statement of taxes on personal property removed.

Collection, where found.

Fees.

Accounting.

Levy of execution.

rants issued for the collection of taxes by township supervisors, and collected in the same manner, in all other respects, as provided by law for the collection of judgments.

Claim for surplus of sale.

SEC. 49. (3872) Whenever a surplus arising from the sale of any property distrained for taxes, shall be claimed by any other than the person for whose tax such property was sold, and such claim shall be contested, either of the contestants may prosecute an action against the other, as for money had and receive and in such action the rights of the parties to such surplus shall be determined. For the purpose of such action the defendant shall be deemed to be in possession of the surplus in the hands of the treasurer, and upon the presentation to said treasurer of a certified copy of the final judgment rendered in such action he shall pay over the same to the party recovering such judgment, and no such treasurer shall be liable to any claimant of such surplus, the right to which is contested as provided in this act, until he shall have refused to pay over such surplus upon the production of a certified copy of the judgment as aforesaid. In any action brought pursuant to this section no other case shall be joined, nor shall any set off be allowed, and if an execution issue on a judgment so rendered, it shall direct the costs only of such action to be levied by virtue thereof.

Defendant deemed in possession.

Treasurer not liable.

Rule in action.

Disability of township treasurer.

Township board to appoint.

SEC. 50. (3873) In case any township treasurer shall neglect to give either of the bonds required, or shall die, resign or remove out of the township or become unable to discharge the duties of his office, the township board shall forthwith appoint a new treasurer, who, on giving the required bonds, shall execute the duties of the office for the remainder of the year and until his successor is elected and qualified. The township clerk shall immediately notify the county treasurer of such appointment.

See Sec. 43.

Sheriff to collect in certain cases.
Bonds.

SEC. 51. (3874) In case the township treasurer shall neglect or refuse to file his bond with the county treasurer, in the manner and within the time prescribed by law, and the township board shall fail to appoint a treasurer who shall give such bond, and deliver a receipt for the same to the supervisor by the tenth day of December, the supervisor shall deliver the tax roll with the necessary warrant directed to the sheriff of the county, who shall, before he receives said tax roll, execute and deliver like bonds required of the township treasurer, and make like collections and returns, and shall be entitled to the same compensation on all taxes collected by him by virtue of such warrant as is allowed to the township treasurer, and for the purpose of collecting the same, shall be vested with all the powers conferred upon the township treasurer, and suit may be brought on such sheriff's bond under the same circumstances as on those of a township treasurer.

Compensation.

Powers.

The collection of taxes by the sheriff being a duty foreign to his position invests him with a new office not within the contemplation of sureties on his official bond as sheriff.—White v. East Saginaw, 48 M. 567.

SEC. 52. (3875) In case the township treasurer shall not collect the full amount of taxes required by his warrant to be paid into the township treasury, such portion thereof as he shall collect shall be retained by him to be paid out for the following purposes: The amount of school taxes collected to be paid on the order of the school district officers, the amount collected for general township purposes to be paid on the order of the township board, the amount collected for highway purposes to be paid on the order of the commissioner of highways countersigned by the township clerk or supervisor, and the amount collected for any special fund to be paid on the order of the proper officer, but in no case shall the amounts collected for any one fund be paid on the orders drawn on any other fund.

When collection incomplete.

Amount collected, how disbursed.

Township clerk to keep separate account with each fund.—2338 C. L. '97. Where a tax payment is expressly made to satisfy a particular assessment the collector if he receives it, must apply the money to the purpose specified and no other.—Fuller v. Grand Rapids, 40 M. 395.

SEC. 53. (3876 C. L. 1897; Am. by Act 130, Laws 1901) Any person may pay the taxes, or any one of the several taxes on any parcel or description of land, or on any undivided share thereof, and the treasurer shall note across the face of the receipt in ink any portion of the taxes remaining unpaid. He may pay any tax, whether levied on personal or real property, under protest, to the treasurer, specifying at the time in writing, signed by him, the grounds of such protest, and such treasurer shall minute the fact of such protest on the tax roll and in the receipt given. The person paying under such protest may, within thirty days and not afterwards, sue the township for the amount paid, and recover, if the tax is shown to be illegal for the reason shown in such protest. Any person owning an undivided share or other part or parcel of real property assessed in one description may pay on the part thus owned by paying an amount having the same relation to the whole tax as the part on which payment is made has to the whole parcel. The person making such payment shall accurately describe the part or share on which he makes payment, and the receipt given and the record of the receiving officer shall show such description, and by whom paid; and in case of the sale of the remaining part, or share for non-payment of taxes, he may purchase the same in like manner as any disinterested person could. Any person having a lien on property may, after thirty days from the time the tax is payable, pay the taxes thereon, and the same may be added to his lien and recovered with the rate of interest borne by the lien. A tenant of real estate may pay the taxes thereon and deduct the same from his rent, unless there be an agreement to the contrary. Such payment may be made to the township treasurer while the tax roll is in his hands, or afterwards to the county treasurer. The receipt given shall be evidence of such payment.

Assessment to and payment of taxes by claimant is insufficient to continue an adverse possession previously held by his grantor.—Miller v. Davis, 106 M. 300. One who has a lien on lands has no right to intervene to pay the tax unless it is manifest that the land owner will not.—Pond v. Drake, 50 M. 302. But this section fixes the time when he may do so. Taxes paid by the mortgagee

which should be paid by the mortgagor may be added to increase the charge upon the mortgaged premises.—*Payne v. Avery*, 21 M. 524. It is competent for a mortgagee to protect his mortgage interest against taxes, and the amount so paid may properly be included in a foreclosure decree.—*Vaughn v. Nims*, 36 M. 297; *Walton v. Bagley*, 47 M. 385. See also, *Farwell v. Bigelow*, 112 M. 285; *Fuller v. Kane*, 110 M. 549. Taxes can generally be enforced only by the statutory remedies, and payment made by the mortgagee of land does not necessarily give him a right of action against the mortgagor as for money paid to his use, since the mortgagee would not have been personally liable for the payment of the taxes and the mortgagor's failure to pay them would only have rendered the property subject to seizure while the warrant was good for their collection.—*Itaynesford v. Phelps*, 43 M. 342.

In an action to recover the amount of a tax paid under protest, the assessment cannot be attacked on grounds not covered by the protest. *Aurora Iron Mining Co. v. City of Ironwood*, 119 M. 325.

G. paid taxes upon land for the purpose of effecting a sale. No demand or levy or threats of levy had been made. Held, that payment was not made under duress.—*Gage v. City of Saginaw*, 128 M. 682.

A tax-payer believing only part of the tax assessed by a city valid may pay that portion, and have a receipt therefor, and contest the invalid part.—*Chaplin Mining Co. v. Uddenberg, Tr.*, 126 M. 375.

Where there is no stipulation in the lease as to taxes, they are payable by the landlord, and the tenant is entitled to show that his landlord's title has been extinguished by sale for such taxes.—*Sherman v. Spaulding*, 126 M. 661.

Payment to the city treasurer of a void city tax under protest entitles one to recover the amount so paid, even though the payment was made voluntarily.—*Gage v. City of Saginaw*, 128 M. 682.

A covenant in a mortgage whereby the mortgagor agrees to pay all taxes and assessments levied upon the mortgaged property and all taxes upon the indebtedness secured by the mortgage imposes upon the mortgagor the liability to pay the personal mortgage tax.—*Green v. Grant*, 10 D. L. N. 546.

PAYMENT UNDER PROTEST: Where sale of land is threatened the test whether owner may safely pay under protest to prevent the sale and afterward sue to recover back the money seems to be whether the sale if made would constitute a cloud upon the title. A sale to satisfy an alleged tax which has no semblance of legality but is totally void on its face would not cloud title. An assessment under a statute which is unconstitutional and void, cannot be the basis of a sale that could cloud title. A threat to enforce payment of such a tax, no seizure of the goods or of the person having been made or threatened or authorized, where the officer has no authority to compel payment otherwise than by the sale of land, which could injure no one, would not constitute a payment made in consequence thereof anything but a voluntary payment. A protest cannot alone change what would otherwise be in law a voluntary payment into an involuntary one, or change the rights of the parties; and one paying voluntarily under a claim of right cannot afterwards recover back the money although he protested at the time against his liability.—*Detroit v. Martin*, 34 M. 170. But this rule does not apply where a law under which levy is made is constitutional. Payment of tax under protest where property is threatened with seizure under tax warrant, or real estate is threatened or be sold is not voluntary.—*Whitney v. Port Huron*, 88 M. 268. In the case of taxes mailed township treasurer with notice of protest, notice held provable by accurate copy put in evidence, after proof of service.—*Mich. Land, etc., Co. v. Republic Township*, 65 M. 628.

Payment of personal tax before collector is authorized to enforce collection and without demand or threatened levy is voluntary and suit of recovery cannot be maintained.—*Baker v. City of Grand Rapids*, 65 M. 76; *Mills v. Township of Richland*, 72 M. 100. A specific protest must be made when taxes are voluntarily paid or an action to recover back the payment will not lie. In suit to recover back taxes paid voluntarily under protest, the tax must be shown to be illegal for the reason specified in the protest.—*Peninsula Iron Co. v. Crystal Falls*, 60 M. 79. See also *Mills v. Township of Richland*, 72 M. 100. It is not the protest but the illegality of the tax that gives cause of action to recover taxes paid under protest. Payment without duress or levy is voluntary though made under protest. Irregularities in assessment which were not prejudicial to protestant give no right of recovery.—*White v. Millbrook*, 60 M. 532. See also *Hill v. Graham*, 72 M. 659.

Assumpsit lies to recover back an unlawful tax enacted under color of existing process and paid with protest; and interest will be allowed in such case. A municipality cannot escape liability for the amount of a tax illegally exacted on the grounds that the money was not to be used for municipal purposes.—*Grand Rapids v. Blakely*, 40 M. 367. Action lies against a municipal corporation to recover back illegal assessments paid under compulsion. Paying a tax under protest is an assertion of illegality.—*Louden v. East Saginaw*, 41 M. 18. If tax proceedings on their face are fatally defective action will lie to recover back money paid under them.—*Moss v. Cummings*, 44 M. 359. The township treasurer collects taxes as the agent of the township and the township is liable for taxes wrongfully levied and collected except the amount paid county treasurer for State and county taxes, although paid out on school or highway orders.—*Ryles v. Golden Township*, 52 M. 612. Action to recover back a tax paid under protest will lie when the assessment is of a particular class of property clearly identified and separable.—*Herrick v. Big Rapids*, 53 M. 554.

Payment of illegal tax under written protest after levy by an officer is involuntary though the tax-payer himself pointed out to the officer property on which the levy might be made.—*Roedell v. White Cloud*, 108 M. 506. A property owner paying taxes on a void assessment roll under protest and after demand

does not pay them voluntarily.—*Thompson v. Detroit*, 114 M. 502. Recovery of personal tax paid under protest is not affected by immaterial variance of names such as did not mislead.—*Barnhard v. White Cloud*, 108 M. 508.

One who under protest had paid taxes assessed upon his lands cannot maintain an action for the repayment of such taxes against a city whose charter provides that it shall be sufficient defense to any action or proceeding against the city for the collection of any claim that such action or proceeding was begun before the common council had time to pass upon or investigate the claim, where he commenced his action before the next meeting of the council after the one at which the claim was presented.—*Mason v. Muskegon*, 111 M. 687.

Right of recovery of tax paid under protest exists only where tax itself is illegal. Levy on logs owned by lumber company to satisfy tax upon personal property of its president held not within the statute; that warrant did not authorize the seizure and that remedy was against officer or by replevin against the purchaser if sale was made. Tax having been paid before time for sale, payment was held to be voluntary.—*Lumber Co. v. Manistee*, 100 M. 466.

In action to recover taxes paid under protest, no showing can be made nor recovery had upon any ground not named in the protest.—*Hinds v. Township of Belvidere*, 107 M. 664. In order to warrant judgment for plaintiff in suit to recover taxes paid under protest, there must have been such jurisdictional defect as to render the tax void, and not mere irregularity in spreading tax or informality in warrant. Recovery of school tax paid under protest is not dependent upon formality of certificate furnished supervisor as to said taxes but depends upon whether said taxes were authorized by the district.—*Sheldon v. Marlon*, 101 M. 256.

A protest against payment of special highway tax because levied against property of township to pay highway orders of certain road districts instead of being levied against the property of each road district on which orders were drawn, is sufficient.—*McFarlan v. Township of Cedar Creek*, 93 M. 558.

Action to recover drain taxes paid township treasurer under protest cannot be maintained against the township. Sec. 53 being applicable only to taxes under the general tax law.—*Taylor v. Township of Avon*, 73 M. 604. A township treasurer does not receive a ditch tax for the township, and assumption will not lie against the township to recover such a tax levied under unlawful proceedings.—*Camp v. Algonsee Township*, 50 M. 4. In case of drain tax paid under protest action should be against collecting officer.—*Hillier v. Jonesfield*, 114 M. 644. Action will not lie to recover drain tax paid under protest on ground of failure to file record with county clerk.—*Matrau v. Tompkins*, 99 M. 528. City taxes paid under protest cannot be recovered back merely because warrant had expired. Where collector threatens to sell property for void taxes, owner may pay under protest and recover back.—*Lumber Co. v. City of Alpena*, 97 M. 499.

Bill for accounting and that taxes levied and collected under a misapprehension of the requirements of the statute, but which were paid from year to year without protest, be returned to tax-payers cannot be sustained in absence of averment of fraud in assessment or levy.—*Manistee Lumber Co. v. Township of Springfield*, 92 M. 277. Where city charter so provides presentation to the council of a verified claim for money paid under protest for taxes is a condition precedent to bringing suit to recover.—*Crittenden v. Mt. Clemens*, 86 M. 220. Where (under law of 1891) tax assessed to bank on mortgages was paid under protest, held that the right to recover was lost by failure to appeal to board of review.—*Michigan Savings Bank v. Detroit*, 107 M. 246.

In a suit to recover a tax paid under protest under a threat of levy, the taxpayer is not limited to the reasons stated in the protest, where the protest is made under the statute.—*Woodmere Cemetery Association v. Twp. of Springwells*, 9 D. L. N. 119.

Payment under protest does not apply where a payment is involuntary and made under legal duress, even though a protest is made when the tax is so paid.—*Pere Marquette Railroad v. City of Ludington*, 10 D. L. N. 231.

PART PAYMENT: Where part of the tax only is paid it should be all of certain taxes or on a definite part of the land, or if neither is practicable, payment may be accepted and recépted for on an expressed undivided interest in the description. In such cases the treasurer should note across the face of the receipt in ink (receipts should never be written with a pencil) the items of tax unpaid, or the definite or undivided part of the description on which the tax remains unpaid. The importance of strict compliance with the law in this regard should be apparent to every receiver of taxes.

See Secs. 46, 59, 107, 117.

SEC. 54. (3877 C. L. 1897; Am. by Act 193, Laws 1901)
Within one week after the time specified in his warrant the township treasurer or other collecting officer shall pay to the county treasurer all State and county taxes collected, and within the same time shall make his statement of unpaid taxes upon real and personal property as required in the following section:

A collector who has received state and county taxes is required to pay the sums received over to the county treasurer in the absence of legal protest from tax-payers and cannot retain it on his claim that the collection was illegal or irregular.—*Berrien Co. Treasurer v. Baunbury*, 45 M. 79. Township orders received in the township treasury as money must be accounted for as money received.—*Byles v. Golden Township*, 52 M. 612.

The treasurer's return of delinquent lands must describe the lands as they are described on the tax roll. He has no authority to change the descriptions in any particular. The descriptions should be entered on his return in the numerical order of the sections followed by descriptions in cities and these by descriptions in villages, if any, concluding with platted lands not in corporate limits, if any. If part payment of the taxes has been made the return should not include the taxes which have been paid or the part of the description on which all the taxes have been paid.

City treasurers have no more authority for withholding their returns after March 1 than have township treasurers.

A return which is neither signed by the collector nor verified by his oath held to be unofficial and of no legal value.—*Upton v. Kennedy*, 36 M. 215. Failure of township treasurer to verify his return of delinquent tax land is fatal to sale.—*Seymour v. Peters*, 67 M. 415. Where the township treasurer's return does not show that personal demand was made for the taxes, but was in statutory form, held sufficient, as if personal demand was necessary it must be presumed to have been made.—*Dickison v. Reynolds*, 48 M. 159. Return of inability to find the personal property in possession of the person chargeable with payment of taxes is a condition precedent to a valid sale, and in the absence of such return the existence of such personal property may be shown to defeat such sale.—*Tompkins v. Johnson*, 75 M. 181. Return of taxes made before the expiration of time for making the return is no wrong to the taxpayer, whose right to make payment after the return is the same as before.—*Drennan v. Bierlein*, 49 M. 272; *Shefferly v. Auditor General*, 120 M. 455. Premature return does not affect the jurisdiction or void the decree.—*Conley v. McMillan*, 119 M. 694. In *Bailey v. Haywood*, 70 M. 188, it was held that premature return by township treasurer renders sales therefor void; but this holding was under a law that provided for office charges after the lands were returned.

One who had purchased the equity of redemption of mortgaged lands after a tax had been assessed thereon had personal property on the land that the collector falsely returned nulla bona and the tax became a lien on the land from which the owner of the mortgage had to redeem after foreclosure. Held that the latter had a right of action at common law against the collector for injury resulting to him in being compelled to redeem from the tax sale.—*Raynesford v. Phelps*, 43 M. 342. A tax sale for a void tax does no such injury to a mortgagee as will sustain an action against the tax collector for damages; and in such a suit the collector is not estopped by his return from showing that the tax was void.—*Raynesford v. Phelps*, 49 M. 315.

County treasurer is not authorized to pass upon irregularities in returns, but is required to accept returns from city when made as charter provides.—*City of Jackson v. Jackson County Treasurer*, 117 M. 305. But he should reject all erroneous descriptions as provided in this section. This he must do at the time of the comparison, and should not include these rejected descriptions in his transcript sent to the Auditor General.

VILLAGE TAXES: Renewal of warrant for collection of village taxes by order of council is valid though made after expiration of warrant.—*Village taxes not invalidated by reason of president extending warrant to October 7, when council has authorized its renewal to a later date.*—*Lumber Co. v. Village of Oscoda*, 97 M. 221. No formal notification to the officer to whom the warrant is directed is necessary to a valid extension of it.—*Griswold v. Union School District*, 24 M. 262.

Town treasurer must account for the full amount of the tax roll either in money or the return of unpaid taxes. A township must make good the amount of the default of its treasurer.—*Oceana County v. Hart Township*, 48 M. 319. Statement of collector under oath of all moneys received is required to secure an accurate accounting of all the moneys in the collector's hands, and has no reference to the return of lands for delinquent taxes.—*Tweed v. Metcalf*, 4 M. 579.

See Secs. 56, 112.

SEC. 56. (3879) The county treasurer shall thereupon indorse the fact of such settlement on the bond of the township or city treasurer, which indorsement shall operate as a discharge of the treasurer and his sureties from the obligation thereof, unless the return of such treasurer is incorrect, in which case such bond shall continue in force, and such treasurer and his sureties shall be liable thereon for all damages occasioned by such incorrect returns; and the township treasurer shall immediately deposit his tax roll with the county treasurer, who shall file and preserve the same in his office, and which said roll or a duly certified copy thereof shall, for all purposes, in all courts, suits and proceedings, be taken, held and used as evidence, in the same manner and with like effect as the original roll. The county treasurer shall give the township or city treasurer a statement of all the personal taxes

Discharge of township treasurer's bond.

Tax roll and copy to be filed with county treasurer.

Uncollected personal taxes.

County treasurer's warrant.

which remain uncollected, taken from the return of the latter, with a warrant authorizing him or his successor to collect them according to law, and thereafter such treasurer or his successor shall have the same power to collect such taxes as under the original warrant.

City and township treasurers required to pay to the county treasurer the full amount of the tax levy upon personal property whether it has been collected or not.—*City of Muskegon v. County of Muskegon*, 123 M. 272.

County treasurer can only issue supplemental warrant upon town treasurer filing the verified statement provided for (Sec. 55), which must strictly conform to the statutory requirements.—*Township of Port Huron v. Potts*, 78 M. 435. Where township treasurer fails to make return or unpaid personal taxes, county treasurer's warrant is void and no action can be maintained by township to collect although regularly assessed and payment promised.—*Bangor v. Transportation Co.*, 106 M. 223. Warrant is absolutely void where no verified return has been made to the county treasurer as required by Sec. 55.—*Northwestern Cooperage and Lumber Co. v. Scott*, 123 M. 357.

If there is a balance due the State, as there may be from a failure to collect the full amount of the personal tax, the county must make it good, as was held in *City of Muskegon v. County of Muskegon*, 123 M. 272.—*Auditor General v. Bolt*, 124 M. 185.

Record and transcript of delinquent taxes.

Sec. 57. Am. Act 225 of 1897. (3880) When any county treasurer shall receive from a township treasurer a statement of unpaid taxes, together with a list of the lands on which the same are delinquent, verified according to law, such county treasurer shall enter the same at length on the books in his office, provided for that purpose, and he shall make a transcript of all the descriptions of land returned as delinquent for unpaid taxes, except such as may have been rejected by him, with the several taxes assessed upon such descriptions respectively, which transcript shall be compared by the county clerk with the statement of the county treasurer, and if the county clerk finds it to be a true transcript thereof, he shall add to it a certificate that he has, upon careful examination, found it correct. Such transcript, so made, compared and certified, shall be forwarded by the county treasurer to the Auditor General, by the first day of May next after the return of such statement; but such transcript shall be receivable at any time during said month of May, and the Auditor General is hereby authorized, when in his judgment it may be deemed expedient, to extend the time in which said transcript shall be returned to him.

Certificate of county clerk upon transcript.

Return to Auditor General.

County clerk not required to certify to township treasurer's returns to county treasurer, but to the accuracy of the county treasurer's transcript to the Auditor General.—*Hunt v. Chaplin*, 42 M. 24.

In an action to charge county treasurer on his bond with failure of duty in not forwarding to the Auditor General lists of delinquent tax lands it is incumbent to show that the transcripts were not forwarded within a reasonable time after actual return to the treasurer by the collectors.—*Supervisors of Houghton v. Rees* 34 M. 481. Mandamus will not be granted to compel Auditor General to receive transcript which is not forwarded within the statutory period. Whether or not Auditor General might in his discretion accept returns forwarded later there is nothing in the statute making it his duty to do so or conferring on the county the right to demand credit upon its account with the State for the amount of such belated returns.—*Houghton County v. Auditor General*, 36 M. 271.

County treasurer's transcript to Auditor General should not include any lands or taxes rejected by him (Sec. 55), nor any personal taxes. It should be forwarded as soon as is practicable after returned to him. At the same time he should return a transcript of all lands returned for village (corporation) taxes. There is no advantage in returning the latter before the regular returns are made.

All lands and all taxes thereon returned to the county treasurer (except those rejected by him as provided in Sec. 55) must be included in his transcript sent to the Auditor General, whether the taxes are paid before such transcript is forwarded or not.

SEC. 58. (3881) After the return of lands for unpaid taxes the county treasurer is authorized to receive, under like provisions as in section fifty-three of this act, the amounts of the several taxes or any of them due, and the board of supervisors in each county may authorize notice to be given to all delinquent taxpayers so far as known. The county treasurer shall issue duplicate receipts for all such taxes received by him, which shall be countersigned by the county clerk, and one of such duplicates shall be left with said clerk, who shall make an entry of the amount for which every such receipt was given, with the name and postoffice address of the person paying such tax, in a book provided for that purpose, and shall on the first Monday of each month, forward all such receipts to the Auditor General, in such manner as he may direct.

County treasurer may receive taxes returned.

Duplicate receipts.

County clerk to record.

Transmittal to Auditor General.

County clerks should never countersign duplicate receipts in advance, but must countersign them as issued and retain one at that time. There will then be no reason why all the duplicates for the month may not be promptly forwarded to the Auditor General after the close of each month. They should see that the postoffice address of the person paying is entered on both the receipt and the duplicate.

Section does not authorize payment to county treasurer under protest and recovery by suit against county. Payment to county treasurer under protest to secure certificate under Sec. 135 is not payment under duress and gives no common law right for recovery of amount paid.—*Weston v. County of Luce*, 102 M. 528.

This section does not apply to taxes for years where sales are canceled.—*Schulte v. Auditor General*, 9 D. L. N. 486.

SEC. 59. (3882) Am. Act 262 of 1899. Any person may pay the taxes or any one of the several taxes, on any parcel or description of land returned as aforesaid, or on any undivided share thereof, with interest computed thereon from the first day of March next after the same were assessed, at the rate of one per cent per month or fraction thereof, with four per cent as a collection fee, to the county treasurer of the county in which the lands are situated, at any time before they are sold: *Provided*, That on all descriptions of land on which any of the several taxes remain unpaid on the first day of October next preceding the time prescribed for the sale thereof, there shall be charged an additional one dollar for expenses and which shall thereafter be a lien on said land and when collected shall belong to the general fund of the State.

Partial payment.

Interest and collection fee.

Lien for expenses.

The charge for interest and expense provided for by Sec. 59 as amended by Act 262 of 1899 applies to all taxes unpaid and not merely to those assessed after the amendment.—*Webster v. Auditor General*, 121 M. 668.

As to penalty see *Lacey v. Davis*, 4 M. 140.

See Secs. 53, 117.

OF THE SALE, REDEMPTION AND CONVEYANCE OF DELINQUENT TAX LANDS.

SEC. 60. (3883) All lands which have been or may hereafter be returned to the Auditor General as delinquent for taxes and upon which any taxes are now or shall hereafter remain unpaid, after their return to the Auditor General under the provisions of this act, or to the several county treasurers of the State under the provisions of Act number 200 of the Public Acts of 1891, for the period of one year or more, shall be subject to disposition, sale and redemption for the enforcement and

Delinquent land subject to sale.

Right to
enforce lien.

collection of such tax liens, in the method and manner as hereinafter provided. In the disposition and sale of such delinquent tax lands the people of the State of Michigan shall be deemed to have a valid lien upon such lands, with all the rights to enforce the same as a preferred or first claim upon such lands, and the rights and choses to enforce such lien shall be held and construed by all the courts of this State as the *prima facie* rights of the State, and shall not be set aside or annulled except in the manner and for the causes herein specified.

The act, though altering the time of sale and the period for redemption as to lands previously assessed, is not open to the objection that it violates the provision of the federal constitution (Sec. 10, Art. I) that no state shall enact any law impairing the obligation of contracts, since proceedings for the collection of taxes are essentially in invitum, and do not presuppose the existence of any contract, relation; nor does the act conflict with the provision of the state constitution (Sec. 32, Art. VI) that no person shall be deprived of his property without due process of law.—*Muirhead v. Sands*, 111 M. 486.

Proceedings to collect taxes are usually proceedings in rem. The fact that the statute authorizes these proceedings to be taken in a court of equity does not make them any the less proceedings in rem. The property alone is described in the petition. Every one knows that his land is subject to taxation; every one is presumed to know the law. If he fails to pay he must be held to know that proceedings will be taken to enforce these taxes against his land and not against him personally. If not paid he knows that his property will be advertised and sold under a decree in chancery, without reference or further notice to the owner of the land or to the person against whom it is or may be assessed.—*Dumphy v. Hilton*, 121 M. 315.

Section not inconsistent with Sec. 125.—*Muirhead v. Sands*, 111 M. 487.

When a tax-payer paid a part of a tax which was thereafter returned to him by the collector on the tax-payer's inability to pay the balance before the expiration of the time when the tax must either have been paid or the land returned for delinquent taxes, such payment did not affect the State's lien on the land for the entire tax, nor invalidate a sale of the land for the same.—*Sayers v. O'Connor*, 124 M. 256.

See Sec. 138.

OF THE NOTICE AND LISTS OF LANDS TO BE SOLD.

Petition for
decree of
sale.

Showing
required.

Interest and
charges.

Verification.

Unsold de-
linquent lands
to be included.

SEC. 61. Am. Act 225 of 1897. (3884) Am. Act 262 of 1899. In sufficient time before the time fixed herein for the annual tax sale, the Auditor General shall prepare and file in the office of the county clerk in each county in which lands are to be sold under the provisions of this act, a petition addressed to the circuit court for said county in chancery, stating therein by apt reference to lists or schedules annexed thereto a description of all lands in such county upon which taxes have remained unpaid for more than one year after they were returned as delinquent, and the total amount of such taxes, with interest computed thereon to the first day of May following the filing of said petition, and a collection fee of four per cent extended separately against each parcel of land, and he shall include with and add to such total amount against each parcel, one dollar for expenses. Such petition shall pray a decree in favor of the State of Michigan against said land for the payment of the several amounts so specified therein, and in default thereof that such lands be sold. It shall be signed by the Auditor General and need not be otherwise verified, and shall be deemed equivalent to a bill in chancery to enforce the lien for such taxes, interest and charges, averring their validity, that they have not been paid, and praying for a sale to pay such lien. Lands heretofore or hereafter bid off in the name of the State and thus held, and on which taxes have been assessed subse-

uent to the tax for which such lands were sold and purchased by the State, shall be included in such petition for all such subsequent taxes which have remained unpaid for more than one year after they were returned as delinquent. The petition shall be in a substantial record book, with the lists of lands and taxes annexed following the same therein. Such record shall be ruled with appropriate columns, one containing a description of the lands with columns for the total amount of taxes, interest and charges claimed due on each parcel of land opposite thereto; also with blank columns, one with heading: "Parts of descriptions paid before sale or withheld;" another, "By whom paid;" another, "Amount paid before sale;" another, "Amount decreed against lands;" another, "Special orders;" another, "Interest in each parcel sold;" another, "Name of purchaser;" another, "Address of purchaser;" another, "Number of certificate;" another, "Remarks." The Auditor General may add such other columns as he may find necessary. The word "petition" shall be construed to include the lists annexed thereto. Said record shall be called "Tax Record." Parts of descriptions of land upon which taxes are paid before sale, or which are withheld from sale, the amount paid on taxes before sale, the amount of taxes, interest and charges decreed against lands, special orders made by the court relating to any parcel of land or any tax, the interest in each parcel of land sold, the name of each purchaser and his address, and the number of certificate of sale shall be entered in said record under their appropriate headings, opposite to the description of lands affected thereby.

Form of petition.

Tax record.

Copy of petition found in county clerk's files cannot be considered as the original petition when the proper petition is in county treasurer's office.—*Barnum v. Barnes*, 118 M. 264. Where the petition is produced from the county treasurer's office and other papers including the order of publication which order recites the fact of the filing of the petition are produced from the clerk's office it will be presumed that the petition was filed with the clerk and that the failure to mark it as filed was a clerical omission.—*Mann v. Carson*, 120 M. 631.

A decree for the sale of lands for delinquent taxes including a charge of seventy cents for "advertising and other expenses," is valid; the limitation in section 63 of 40 cents for each description applies only to the amount to be paid for printing the advertisement.—*Sayers v. O'Connor*, 124 M. 256.

The auditor general in a petition for the sale of lands for delinquent taxes had no right (before amendment of 1899) to include in the petition lands previously sold and held by the State as State tax lands. Following *Conn. Mutual Life Ins. Co. v. Wood*, 115 M. 444.—*Axtex Copper Co. v. Auditor General*, 125 M. 615.

SEC. 62. Am. Act 154 of 1895 and Act 225 of 1897. (3885) Am. Act 262 of 1899. It shall be the duty of the county clerk, on the filing of the said petition, to at once present the same to the circuit judge of the county in which said delinquent tax lands are situated, and it shall be the duty of said circuit judge to make an order in the form herein prescribed, which order, when so made and signed by the circuit judge, shall be countersigned by the county clerk as register in chancery, and recorded by him in the proper books of his office, and thereupon it shall be the duty of said county clerk to immediately make a true copy of said order, and transmit the same to the Auditor General. Said order shall be substantially in the following form:

Duty of circuit judge and county clerk.

Form of order
of hearing.

STATE OF MICHIGAN, }
County of } ss.

The circuit court for the county of.....
in chancery.

In the matter of the petition of.....
Auditor General of the State of Michigan, for and in behalf of
said State, for the sale of certain lands for taxes assessed
thereon: On reading and filing the petition of the Auditor
General of the State of Michigan, praying for a decree in favor
of the State of Michigan, against each parcel of land therein
described, for the amounts therein specified, claimed to be due
for taxes, interest and charges on each such parcel of land,
and that such lands be sold for the amounts so claimed by the
State of Michigan. It is ordered that said petition will be
brought on for hearing and decree at the term
of this court, to be held at....., in the county
of State of Michigan, on the.....
day of.....A. D. 18...at the opening of the
court on that day, and that all persons interested in such lands
or any part thereof, desiring to contest the lien claimed thereon
by the State of Michigan, for such taxes, interest and charges,
or any part thereof, shall appear in said court, and file with
the clerk thereof, acting as register in chancery, their objections
thereto, on or before the first day of the term of this court
above mentioned, and that in default thereof the same will be
taken as confessed and a decree will be taken and entered as
prayed for in said petition. And it is further ordered that in
pursuance of said decree the lands described in said petition
for which a decree of sale shall be made, will be sold for the
several taxes, interest and charges thereon as determined by
such decree, on the first Tuesday in May thereafter, beginning
at ten o'clock a. m., on said day, or on the day or days sub-
sequent thereto, as may be necessary to complete the sale of
said lands and of each and every parcel thereof, at the office
of the county treasurer, or at such convenient place as shall be
selected by him at the county seat of the county of.....
State of Michigan; and that the sale then and there made will
be a public sale, and each parcel described in the decree shall
be separately exposed for sale for the total taxes, interest and
charges, and the sale shall be made to the person paying the
full amount charged against such parcel, and accepting a con-
veyance of the smallest undivided fee simple interest therein;
or, if no person will pay the taxes and charges and take a
conveyance of less than the entire thereof, then the whole par-
cel shall be offered and sold. If any parcel of land cannot be
sold for taxes, interest and charges, such parcel shall be passed
over for the time being, and shall, on the succeeding day, or
before the close of the sale, be reoffered, and if, on such second
offer, or during such sale, the same cannot be sold for the
amount aforesaid, the county treasurer shall bid off the same
in the name of the State.

Witness the Hon....., circuit
 Judge, and the seal of said (circuit) court of.....
 County, that.....day of.....A. D. 18....

.....,
 Circuit Judge.

Countersigned,

Register.

The order of hearing is not required to be taken in open court and there is no reason why county clerk's should wait for the court to convene before presenting the petition. The judges should be advised of the facts "at once" upon the filing of the petition. The filing of the petition and every order made should be promptly recorded in the chancery records. A certified copy of the order of hearing should be promptly forwarded to the Auditor General.

Court may make a valid order to take the place of a void one, providing the valid order is made in time and follows the requirements of the statute.—*Javen v. Owen*, 121 M. 51.

County clerk's sureties liable for his failure to enter and record all orders, etc., and to faithfully perform the duties imposed upon him by law—2571 C. L. N. 183.

Hearing must be at a term of court subsequent to that in which petition is filed, and when fixed for the same term no jurisdiction is acquired to enter decree.—*Ledyard v. Auditor General*, 121 M. 56; also *Tromble v. Hoffman*, 9 D. L. N. 183. But may be at a special term held subsequent to filing of petition. See *Roberts v. Loxley*, 121 M. 63.

Statutory notice as to place of sale sufficient.—*Clark v. Moyer*, 5 M. 462; *Wisner v. Davenport*, 5 M. 501. Statutory form of order of hearing sufficient. *Waldron v. Auditor General*, 109 M. 231. If at the time of filing the petition the county treasurer has any proper reason for selecting a place of sale at the county seat other than his office the judge should be so advised, and in such case the name of the place selected may be substituted in order of hearing for the words "at the office of the county treasurer," but if this is done the words "or at such convenient place, etc.," should not be stricken out.

SEC. 63. Am. Act 225 of 1897. (3886) The newspapers in which such order and petition are to be published shall be designated by the Auditor General on or before the first day of September in each and every year, and not afterwards, unless the publisher of the paper so designated shall fail to accept such designation within fifteen days after the same is made, or shall refuse or neglect to publish and print such order and petition, or unless, from any other cause, such publication shall become impracticable; in which case the Auditor General shall designate some other paper for that purpose before the time limited for commencing such publication: *Provided*, That in counties where one or more newspapers have been printed and published more than one year prior to such designation [of] one of such papers shall be designated for the publication herein required.

Auditor General to designate newspapers.

Provido.

The requirement of the recording of the court's order is not jurisdictional so as to invalidate the tax sale proceedings on account of a failure to record it at length.—*Burns v. Ford*, 124 M. 274.

No provision for any record of the designation.—*Waldron v. Auditor General*, 109 M. 231. The fact that neither the notice nor the affidavit of publication show affirmatively that Auditor General designated paper cannot be urged as objection to jurisdiction. Statute requires neither. When petition is signed by Auditor General it will be presumed that he authorized publication where it appears.—*Watts v. Buhlitz*, 99 M. 580.

The regularity of tax proceedings is not affected by the fact that the order of the Auditor General, designating the newspaper in which the proceedings should be published, is made prior to the time that the petition is filed.—*Wilkin v. Keith*, 121 M. 66.

As to power of revocation of designation see *Featherly v. Auditor General*, Mich. Mandamus Cases, 1027; *Brown v. Auditor General*, Mich. Mandamus Cases, 1028.

Publication
in certain
events.

SEC. 64. (3887) In case there is no paper published in such county, or if from any cause no paper can be secured in any county to publish such order and petition, the Auditor General shall cause such order and petition containing the list of land delinquent for taxes to be printed in proper form for general distribution, and shall furnish the county treasurer with such number of the same as may be necessary to furnish each voter at the last general election in said county with one copy, and such county treasurer shall distribute the order and petition in such manner that copies thereof may become public in every township in said county, and shall post or cause to be posted three copies in three public places in each township, and shall file affidavit of the posting and distribution of the same in the usual form in the office of said county treasurer and of the Auditor General.

County treas-
urer to dis-
tribute.

Proof of
distribution.

Public places—what deemed.—*People v. LaGrange*, 2 M. 187. Affidavit should show where posted.—*People v. Commissioners of Nankin*, 14 M. 528.

Cost of
advertising.

SEC. 65. (3888) The cost of such advertising shall in no case exceed the sum of forty cents for each description of land so advertised and sold, and shall be paid by the State Treasurer, upon the warrant of the Auditor General, out of the general fund of the State.

Decree not invalid because Section 65 provided 40 cents for advertising and seventy cents is included in decree. This section provides for pay for publication and does not include costs and charges. Section 61 relates to charges that may be included in petition.—*Sayres v. O'Connor*, 124 M. 256.

Publication of
order and
petition.

SEC. 66. Am. Act 162 of 1895. (3889) Am. Act 31 of 1899 and Act 264 of 1899. The Auditor General shall cause a copy of said order and a copy of said petition to be published at least once in each week for four successive weeks next prior to the time fixed for the hearing thereof, in some newspaper published and circulating in the county where such petition is filed, to be selected by the Auditor General. Said order and petition shall both be published in the same newspaper, the order immediately preceding the petition: *Provided*, In such petition it shall be sufficient to print against each parcel the "amount of taxes," "interest," "charges," "total," due on each. The cost of such publication shall be paid by the State on the warrant of the Auditor General. The proprietor of such paper shall furnish the proper county treasurer and Auditor General each with two copies of each issue containing such publication, and it shall be the duty of such Auditor General and treasurer to carefully examine the notices published and see that they are correct. Any person familiar with the facts may make an affidavit as to the publication required. The Auditor General shall not pay for any such publication until satisfied that it has been made according to law. The publication of the order and petition aforesaid shall be equivalent to a personal service of notice on all persons who are interested in the lands specified in such petition, of the filing thereof, of all proceedings thereon and on the sale of the lands under the decree, and shall give the court jurisdiction to hear such petition, determine all

Copies of
publication.

Publication
equivalent to
personal
notice.

questions arising thereon, and to decree a sale of such lands for the payment of all taxes, interest and charges thereon. The circuit court in chancery shall have jurisdiction to hear, try and determine the matters alleged in such petition, even though the amount involved therein be less than one hundred dollars. It shall be the duty of the prosecuting attorney to prosecute all such proceedings on the part of the State. If he shall refuse, neglect or be unable to do so, the court shall appoint some competent person to take charge of and prosecute the same, who shall be paid by the county. The board of supervisors may employ some competent person to prosecute such proceedings or assist therein. Proof of the publication of the order and petition herein required shall be filed in the office of the county clerk before any final order is made. Any person having any interest in the lands or any portion thereof included or referred to in said petition desiring to contest the validity of any tax shall file in writing his objections thereto with the clerk of the county in which said lands are advertised for sale and serve a copy thereof on the prosecuting attorney of the county, on or before the day fixed in said notice for the hearing of such petition, and shall not be allowed to make any objections not therein specified. If on the day fixed in such notice for the hearing of such petition or on the day following that day, it shall be made to appear to the court that any person has been prevented from filing his objections to any tax without any fault on his part, such further time may be granted for that purpose as may seem proper, not exceeding five days. The court shall give precedence to the hearing of such petition over all other business, shall examine, consider and determine the matters therein stated and objections made, in a summary manner without other pleadings, and make final decree thereon as the right of the case may be. The taxes specified in the petition shall be presumed to be legal and a decree be made therefor unless the contrary is proved. Evidence shall be taken in open court. All oral testimony shall, at the request of any person interested, be written down and filed. The court may make such orders from time to time as may be necessary to facilitate the proceedings, and shall decide all questions as to the admissibility of evidence, and the decisions so made shall be final and not subject to review or appeal. If the lands of two or more persons have been assessed together, the court may, if practicable, separate the same and apportion to each parcel its just proportion of the taxes, interest and charges. If any tax shall be found illegal, such part shall be set aside and the remaining tax shall be decreed valid. The total amount of taxes, interest and charges, as fixed by the court, shall be entered by the register of the court opposite each parcel of land in the column of said record under the heading "Amount decreed against lands." If the court shall make any order setting aside the taxes on any parcel of land, or any part thereof, or any special order relating

Jurisdiction of circuit court.

Prosecuting attorney to prosecute.

Filing of proof of publication.

Contested taxes.

Notice of contest to be served on prosecuting attorney. Granting further time.

Hearing to have precedence.

Evidence.

Court orders and decisions.

Separation and rejection of taxes.

Register to enter amounts decreed.

Entry and signing of special orders in Tax Record.

to any particular parcel of land, or taxes thereon, a brief entry of such order shall be made upon said record opposite such land or tax, which shall be signed by the judge of the court, either by his full name or initials, and such entry shall have the same effect as if made and entered as a part of a final decree.

Final decree. At least ten days prior to the time fixed for the sale of such lands, the court shall make a final decree in favor of the State of Michigan for such taxes, interest and charges as shall be valid, and determine the total amount thereof chargeable against each parcel of land, and shall order and decree that such several parcels of land, or so much of each as may be necessary to satisfy the amount fixed by such decree, shall severally be sold as the law directs. Such decree shall be considered as a several decree in favor of the State of Michigan against each parcel of land for each tax included therein. The court may decree such costs against a person contesting any tax as may be equitable, if the tax, or any part thereof which remains unpaid be adjudged valid.

Decree in severally.

Costs may be decreed.

PUBLICATION: All writs, processes, proceedings and records in any court within the State shall be in the English language.—1115 C. L. '97; Sec. 6, Art. XVIII, Constitution. Whenever the law provides for a publication in a newspaper it means one published in the English language.—Auditor General v. Hutchinson, 113 M. 245. Publication of order and petition must be in newspaper published in the English language.—Visscher v. Ottawa Circuit Judge, 116 M. 666. In *Schaele v. Wasley*, 70 M. 414, held that publication of notice of guardian sale published in English language, but in a German paper was not a proper publication under our laws.

"Four successive weeks" requires that full interval between the first notice and the sale.—*Bacon v. Kennedy*, 56 M. 329; *Gantz v. Toles*, 40 M. 725. Publication must be in successive issues without omission.—*Mills v. City of Detroit*, 95 M. 422. A statutory foreclosure is not invalidated by certain changes in the paper in which the advertisement is published.—*Perkins v. Keller*, 43 M. 58. Dollar mark on advertised list not requisite to validity of decree.—*Muirhead v. Sands*, 111 M. 487. But must be printed therein to comply with Auditor General's instructions in order to entitle publisher to payment. Auditor General having designated "Muskegon Chronicle" (there being Muskegon Daily Chronicle and Muskegon Weekly Chronicle) and publication being made in Muskegon Weekly Chronicle and treated by Auditor General as a compliance with his designation, held that it was a sufficient and legal publication.—*Waldron v. Auditor General*, 109 M. 231. Publication in supplement sufficient.—*Mann v. Carson*, 120 M. 631; *Wilkin v. Keith*, 121 M. 66.

This section does not require the publication of petition to be made for four weeks and ten days prior to hearing.—*Eldridge v. Richmond et al.* 120 M. 586; *Hooker v. Boud*, 119 M. 255; *Barnum v. Barnum*, 118 M. 264.

PROOF OF PUBLICATION: Affidavit prima facie evidence.—10165 C. L. '97. Proof should not be sworn to before prosecuting attorney or any other attorney who is engaged in the proceeding. See 2640 C. L. '97. Copy of advertisement must be identical with the one published.—*Wilkinson v. Conaty*, 65 M. 614. Proof of publication authorized by statute is not exclusive of any other.—*Schlee v. Darrow Estate*, 65 M. 362. Original proof of publication being erroneous, second affidavit and testimony of publisher held admissible but not conclusive.—*Wyman v. Baer*, 46 M. 418. Proof of publication held to be sufficient where prior to the entry of decree a second affidavit was filed to correct supposed defects in the first and both affidavits taken together conformed to the requirements of the statute.—*Nester v. Church*, 121 M. 81.

Files competent evidence of publication.—*Colton v. Rupert*, 60 M. 318. But can only be corroborative where statute provides what proof shall be filed.

Affidavit need not recite that affiant is familiar with the facts.—*Muirhead v. Sands*, 111 M. 487. Proof of publication properly sworn to though not signed by affiant held valid. Failure to recite that newspaper is published in county not fatal: it can be supplied by reference to Auditor General's certificate of designation.—*Wynkoop v. Grand Traverse Circuit Judge*, 113 M. 381. Where there was no record showing filing of proof of publication and no proof found in clerk's office, publisher testified that statutory publication was made and proof thereof filed; held that this did not show that any sufficient proof was filed and that the provisions of Sec. 99, "no tax or sale * shall be held invalid by showing that any * affidavit, paper * cannot be found in the proper office," does not apply to proof of publication.—*Benedict v. Auditor General*, 104 M. 269. When proof of publication has been duly filed with the register the fact that he attached it to the Tax Record does not render the proceedings void.—*Brooks v. Auditor General*, 119 M. 329. Affidavit reciting publication once in each week commencing September 23d and terminating October 21st held sufficient.—*Garner v. Wallace*, 118 M. 387.

Affidavit showing publication for "four successive weeks first, etc." held insufficient, it not showing publication for four consecutive weeks next prior to hearing.—*McFadden v. Brady*, 120 M. 699. Defect in affidavit of publication cannot be supplied by parol testimony.—*Ibid.* Where proof conforms to statute, it will not be held invalid because it calls the copies of the order and petition a notice when the papers attached clearly show compliance with the statute.—*Spaulding v. O'Connor*, 119 M. 45. But where no paper is found attached to the affidavit, but in the files with the affidavit are found a printed copy of the petition, a list of the delinquent land and a copy of the order of hearing printed on what purported to be a supplement to the newspaper making the affidavit, it will be presumed that the papers were originally attached and held that there was proper proof of publication.—*Mann v. Carson*, 120 M. 631.

In *Auditor General v. Circuit Judge, Mich. Mandamus Cases 634*, objection was made that the paper in which publication had been made was not a newspaper published in the county, within the statute. It appeared that the newspaper was published as the "Roscommon Democrat;" that its office was in that county, and that the papers printed elsewhere, came to the office in bulk and were addressed and distributed through the postoffice of that place. Mandamus was granted to compel respondent to hear and determine the amount due for taxes on certain lands and enter decree therefor.

The full order and petition as published, including list of lands and taxes, must be securely affixed to the affidavit of publication before the affidavit is signed and sworn to. No other part of the paper in which publication is made should be affixed to the affidavit. Care should be taken to file the affidavit and the advertisement affixed thereto in such form that they may be folded and placed in the files without the possibility of their being detached or mutilated or when taken therefrom. In *Featherly v. Hoffman*, 117 M. 42, the files showing an incomplete advertisement affixed to affidavit of publication (the list of lands and taxes was missing), the court vacated the decree and set aside sale made thereunder. So also in *Villet v. Hoffman*, 117 M. 255.

Further as to proof of publication see *Woods v. Monroe*, 17 M. 238; *Perrine 1. Fetters*, 35 M. 233; *Gillett v. Needham*, 37 M. 148; *Dexter v. Cranston*, 41 M. 448; *Snyder v. Hemmingway*, 47 M. 549; *National Bank v. Fonda*, 65 M. 533; *Feustmann v. Estate of Gott*, 65 M. 599; *Horton v. Monroe*, 98 M. 195; *Dodley v. Probate Judge, Mich. Mandamus Cases 664*.

Where the proof of publication and notice of sale of land for taxes were lost, but the proof of publication was duly filed, their loss cannot in a collateral proceeding be held to have defeated the jurisdiction.—*Hoffman v. Pack*, 123 M. 74.

Where an affidavit of publication of notice of a tax sale was duly filed with the register of court, and that fact was noted in his calendar, the fact that he put the affidavit into the tax record did not affect the legality of the notice.—*Brooks v. Dix*, 119 M. 829.

JURISDICTION: The first requisite to adjudication of validity of taxes before sale is jurisdiction.—*Taylor v. Deveau*, 100 M. 531. Publication of order and petition (properly proven) gives court jurisdiction to enter decree for sale.—*In re. Petition of Wiley*, 89 M. 58. Failure to enter an order pro confesso before decree, is a mere irregularity.—*Jenkinson v. Auditor General*, 104 M. 34; and does not make sale void.—*Hooker v. Bond*, 118 M. 255. The act does not require personal service of order of hearing.—*Muirhead v. Sands*, 111 M. 487. This section not unconstitutional because of failure to provide for personal service.—*Ball v. Ridge Copper Co.*, 118 M. 7; *Youngs v. Peters*, 118 M. 45.

Failure to effect the last publication of the petition of the auditor general for the sale of lands for taxes, and the order of the circuit judge setting the same for hearing ten days before the date of hearing, is not a jurisdictional defect invalidating tax sale proceedings.—*Burns v. Ford et al*, 124 M. 274.

The statute makes the publication the equivalent of personal service and it is therefore the duty of the owner to watch the proceedings, and interpose any objection he may have.—*Muirhead v. Sands*, 111 M. 495; *Young v. Peters*, 118 M. 45; *Cole v. Shelp*, 98 M. 58; *In re Wiley*, 89 M. 58; *Ball v. Ridge Copper Co.*, 118 M. 7.

NOTICE: A tax sale will not be set aside in equity because the owner, a non-resident, had no actual notice of the proceedings and supposed that the tax had been paid by one to whom he had sold the land by contract requiring the vendee to pay the taxes.—*Hall v. Mann*, 118 M. 201.

PROSECUTION: Prosecuting attorney shall prosecute or defend in all suits, applications and motions in which the State or county may be a party, or interested.—2556 C. L. '97. In *Latimer v. Circuit Judge, Mich. Mandamus Cases 555*, mandamus to strike from the files a petition filed by the Auditor General for a re-hearing, for the reason that the Auditor General and the counsel employed by the City of Muskegon appeared for petitioner upon such application to the exclusion of the prosecuting attorney was denied. State not liable for costs in case of decision in favor of tax-payer contesting the sale.—*Auditor General v. Baker*, 84 M. 113.

Whether objections go to the validity of the law or of the proceedings taken under it, they must be made and filed in writing on or before the day fixed for the hearing, and no objections not so stated and filed, can be allowed. The statute does not contemplate any mere dilatory pleading. The objection that the petition does not state the fact that a sale of the lands described therein has not been made is without force. The form of petition is sufficient if it contains the facts necessary to be stated as prescribed by the statute. The law is not unconstitutional for the reason that it provides for advertising a sale of lands for unpaid taxes before obtaining decree therefor, or that it cuts off the common law right of trial by jury or that it makes the decision of the circuit judge as to the exclusion or admission of evidence final.—See *Auditor General v. Sloman*, 84 M. 118; *State Tax Law Cases*, 54 M. 350.

Not ground for setting aside decree of sale that there was not sufficient time between final publication and time fixed for hearing for non-resident land owner to reach a place of trial from his place of residence.—*Waldron v. Auditor General*, 109 M. 231. Decree void as to those who did not appear or waive the right for further time where the court entered decree on the day following the day fixed for appearance and adjourned the term, it being held that this was in violation of the provisions of this section.—*Peninsular Savings Bank v. Ward*, 118 M. 87. Also, *Gregory v. Calumet & Hecla*, 121 M. 88.

Full statutory time for objections must be given. See notes to Sec. 139. All cases relative to the five days required by the section before amendment are equally applicable to the two days under the amended section. See *Wait v. McMillan*, 125 M. 95; *Youngs v. Clark*, 120 M. 528; *Miller v. Brown*, 122 M. 147; *Sayer v. Auditor General*, 124 M. 259.

Objections must set forth descriptions, and if only part of the taxes are claimed to be illegal, such information should be furnished the court as to enable it to separate the legal from the illegal. See *Conway v. Township Board*, 15 M. 257.

In *Richmond v. Circuit Judge, Mich. Mandamus Cases 557*, mandamus to vacate order striking relator's objections from the files because copy was not served upon the prosecuting attorney ten days prior to the commencement of the term was denied. This and the following were before amendment providing that objections may be served on prosecuting attorney on or before day of hearing.

In *Walsh v. Circuit Judge, Mich. Mandamus Cases 554*, an order to show cause why an order of the circuit judge overruling prosecuting attorney's objections to the consideration of the defendant's answer on the ground that no copy of answer had been served on relator ten days prior to the first day of term should not be set aside, and also to set aside an order dismissing the proceedings because the order of hearing published lacked the seal of the court and because there were no dollar marks at the head of the columns of the published lists, was denied, it appearing that the circuit judge held the objections made to the proceedings good "for the purpose of having the determination by the supreme court." The court held that the circuit judge should have passed upon each of the points raised upon its merits; that the questions were more properly reviewable on appeal, and that the supreme court does not feel called upon to review questions arising during the course of a proceeding, at least until the final judgment of the court below has been given after full consideration.

Where the time fixed for hearing was Nov. 11th a decree entered Nov. 16th was not premature.—*Brown v. Napper*, 125 M. 117.

In *Allen v. Cowley*, 128 M. 530, the record shows that the 15th day of October, 1895, was fixed by the court for hearing the auditor general's petition for the taxes of 1893; that on that day the court, by an order, adjourned all proceedings until the 29th day of October, following; that court was in session October 29, 30 and 31, on which day the matters were heard; that court continued in session Nov. 1 and 2, when it adjourned sine die. On the 15th of November the decree was signed as of the 31st of October. Held, that there was ample time to file objections under the ruling in *Miller v. Brown*, 122 M. 147. See also *McGinley v. Calumet & Hecla*, 121 M. 88; *Wait v. McMillan*, 121 M. 95; *Youngs v. Clark*, 120 M. 528.

A decree of sale (before amendment of 1899) rendered within five days after the day fixed by the hearing is void as to persons who did not appear, or otherwise waive the right to appeal for further hearing. Following *Peninsula Savings Bank v. Ward*, 118 M. 87, and *McGinley v. Mining Co.*, 121 M. 88,—*Astec Copper Co. v. Auditor General*, 128 M. 615.

In *Johnson v. Circuit Judge, Mich. Mandamus Cases 702*, order to show cause why mandamus should not issue to vacate order holding that in the answer to a petition there are no specific allegations sufficient to raise an issue was denied. In *Auditor General v. Circuit Judge, Mich. Mandamus Cases 718*, mandamus to compel respondent to vacate an order setting aside assessment against certain lands for certain taxes was denied, it appearing that the order was made upon its being shown that there was no proper record of equalization and because of other invalidity in the assessment.

HEARING: A mere mistake of judgment of the assessing officer is not reviewable.—*Peninsula Iron Co. v. Crystal Falls*, 60 M. 79. Title of de facto officer cannot be tried in hearing of petition for decree.—*Auditor General v. Longyear*, 110 M. 223. In hearing on petition for decree the allowance of an amendment to objections filed specifying objections more in detail is within the discretion of the court and will not be reviewed.—*Auditor General v. Chandler*, 108 M. 669. Petition is filed against the lands and no personal decree can be entered against the tax-payer (except for costs against the person contesting; see last part of this section). Answer of fraud to petition filed must specify the acts claimed to be fraudulent and whether of supervisor or board of review. Excessive assessment is not sufficient evidence of fraudulent or corrupt conduct on the part of the assessor or board of review.—*Auditor General v. Stiles*, 83 M. 460. The absolute illegality of a tax may be shown in proceedings to enforce it and it cannot be cured by proof that if the valuation had been correct the tax would have been legal.—*Blanchard v. Powers*, 42 M. 619.

Where a tax-payer fails to appear before board of review he is bound by the assessment as made and cannot in the absence of fraud be heard to complain.—*Smith v. Carlow*, 114 M. 67. One who allows work of extending drain to go on with full knowledge that he is to be assessed therefor and that it must be paid for by an assessment for benefits, is estopped from restraining the collection of the tax.—*Atwell v. Barnes*, 109 M. 10. Owner who, having full knowledge personally and through his agent that a street improvement is to be made and that his lands are to be assessed therefor, allows the

Improvement to be completed and the contractor to be paid out of the proceeds of the bonds issued by the city in anticipation of the collection of the assessment without making any objection thereto, cannot thereafter maintain a bill to restrain the collection of the assessment on the ground of irregularities therein.—*Fitzhugh v. City of Bay City*, 109 M. 589.

Property owner having knowledge of proceedings in matter of special assessment cannot maintain an action in equity to set them aside after half the tax for the improvement has been paid and a large part of the work been done.—*Moore v. McIntyre*, 110 M. 237.

Where one had joined in releasing right of way, had bid for part of the work and did not file his bill until all but himself and another had paid the tax, his bill to enjoin the collection was dismissed for laches.—*Harwood v. Drain Commissioner*, 51 M. 639. The collection of a paving tax will not be enjoined where the complainants have allowed the contractor to go on with the work without asking for relief and have reaped the benefit, with full knowledge that their lands were so situated that any assessment therefor would include said lands.—*Lundbom v. City of Manistee*, 93 M. 170. Land owners after standing by and permitting the construction of a drain without taking any steps to test the validity of the proceedings are estopped from thereafter denying the regularity of the proceedings.—*Township of Walker v. Thomas*, 123 M. 290.

In the absence of express charter provision for the entry of estimate on the record of common council, courts will not for the purpose of invalidating a municipal tax assume that no estimates were made from the fact that no entry thereof appears on the record.—*Auditor General v. Hutchinson*, 113 M. 245. A conveyance of land to trustees to secure an indebtedness is only a mortgage and does not preclude the owner from claiming the title in fee and seeking relief against an illegal tax.—*F. & P. M. Railway Company v. Auditor General*, 41 M. 635.

A purely statutory lien must conform exactly to the statutory conditions; but when it once attaches and is put in process of foreclosure the proceedings, while in part definitely fixed, are nevertheless in important particulars left to the general course of practice. No construction should be strained at in order to defeat them, but the rights of all parties should be harmonized and respected as far as is reasonably practical.—*Sheridan v. Cameron*, 65 M. 680.

Questions arising during trial will not be reviewed on mandamus where decision of circuit court was made for sole purpose of obtaining ruling by Supreme Court.—*Walsh v. St. Clair Circuit Judge*, 107 M. 26.

Auditor General's petition and proof of publication confer jurisdiction to enter decree.—*Conley v. McMillan*, 120 M. 694.

Where the limit of a legal assessment on one's property is fixed and ascertainable, one who resorts to equity to restrain the sale of his land for a tax of which he does not dispute the legality of certain items cannot object to the whole tax on the ground that there is no provision for distinguishing between what is legal and what is not, but must offer to pay what might have been legally assessed. One who seeks to restrain the enforcement of an excessive tax without tendering what he ought equitably to pay is liable for costs; but if he concedes a certain amount to be legal and offers to pay it, his bill ought not to be dismissed, as he has a right to the judgment of the court as to the remainder of the tax.—*Connors v. Detroit*, 41 M. 128. Where objections alleging illegality of certain taxes did not show how much was admittedly legal and how much alleged to be illegal, or set forth any facts from which the court could make the separation, held that the collection of a legal tax would not be enjoined in order to reach an illegal one under those circumstances. Whenever party concedes that a portion of his taxes are just, but disputes another portion, he is not entitled to the interference of equity to stay the execution of process unless he pays or offers to pay the legal part.—*Palmer v. Township of Napoleon*, 16 M. 176.

The law contemplates and provides for collection of both general and special taxes by chancery proceedings under the law. The burden is upon the owner to show the illegality of the tax, the presumption being in favor of its validity.—See *Auditor General v. Maler*, 95 M. 127; *Auditor General v. Smith*, 95 M. 182. On petition for decree, when court finds no lawful equalization, the decree should reject only that part of the tax subject to and dependent upon equalization and should not apply to township, school or other taxes not affected by failure of equalization.—*Auditor General v. Gurney*, 109 M. 472. It is permissible to assess platted lots together in certain cases, and decree entered as against one parcel is a determination of the legality of the proceedings.—*Kneeland v. Hull*, 116 M. 55.

FINAL DECREE: Failure to make final decree 10 days prior to the time fixed for sale will not render decree and sale void, defect being cured by Section 99.—*Hooker v. Bond*, 118 M. 255. The provision is directory.—*Barnum v. Barnes*, 118 M. 264.

All questions as to the validity of a tax upon lands are foreclosed by a valid decree for the sale of the lands for non-payment of the taxes.—*Hall v. Mann*, 118 M. 201; *Spaulding v. O'Connor*, 119 M. 45. Questions affecting proceedings anterior to the decree are cut off by the decree.—*Wilkin v. Keith*, 121 M. 66.

Decree properly signed and countersigned, entered in chancery record with date of filing appended, but no decree found in files and no calendar entry of decree. Held, sale thereunder not invalidated by omission in filing calendar entry.—*Spaulding v. O'Connor*, 119 M. 45.

Proceedings under a void decree would not affect subsequent regular proceedings.—*Wilkin v. Keith*, 121 M. 66. Prior decree setting aside the taxes may be relied on in cases where lands are included in decree of sale by reason

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been reported to Auditor General.—Thomas v.
DECEED: Failure of register to carry out in
Amount decree against land," the amount fixed
which was entered before the blank was filled.—
Filing in the Tax Record the amounts decreed
making of decree and by an employe in the county
subsequent sale and tax title void.—First Baptist
See also Russell v. Chittenden, 123 M. 546.
be attacked in a collateral proceeding by showing
alting to show an adjudication of any sum of money
Sawyer, 121 M. 206.
the register of the circuit court to enter under
against said lands" the total amount of the
not apply to sales made under the decree of the
Powers, 9 D. L. N. 445.
collaterally attacked by showing that the extension
against the land sold was made after the decree
Sawyer, 121 M. 683.
Record of the amounts decreed against the several
made by the county clerk and this should be done as
against the several amounts. At the time of making
orders must be entered in the Tax Record and signed
the judge.

Am. Act 262 of 1899. Such final decree
in the chancery record for recording decrees
have the usual caption for decrees, and shall be
the following form:

COURT OF MICHIGAN, }
Court for the } In Chancery.

Session of said court held at the court house in the
.....on the.....day of.....A. D. 18....

Hon.....Circuit Judge.

Matter of the petition of.....Auditor General of
Michigan. for and in behalf of said State, for the
certain lands for taxes assessed thereon:

petition and the matters therein stated, and the
filed to certain taxes therein claimed (if any such
are filed) came on to be heard, and proof of the due
on of the order of hearing, and of said petition having
to and filed, and after hearing all parties interested

It is ordered, adjudged and decreed that the amount
interest, collection fee, and charges set down in the
headed 'Amount decreed against lands,' in the Tax

of which said petition forms a part, are valid, and de-
made in favor of the State of Michigan therefor against
parcel of said land for the amount set down in said
opposite to such parcel. It is further ordered, ad-

and decreed that said several parcels of land, or such
therein as may be necessary to satisfy the amount
decreed against the same, shall be severally sold as the

on the.....day of May, A. D. 18.... beginning
clock a. m. on said day, or on the day or days subse-

quently as may be necessary to complete the sale of said
of each and every parcel thereof, at the office of the
sheriff, or at such convenient place as shall be
in the county seat of the county of

Michigan. It is further adjudged and decreed that

the several special orders made by this court, and entered on said Tax Record, are made a part hereof, with the same effect as if entered herein.

.....,

Circuit Judge.

(Countersigned),

.....,

Register in Chancery."

If costs are adjudged against any person contesting a tax, the decree therefor shall be in proper form and execution awarded. The decree shall be signed by the judge and countersigned by the clerk. Immediately after the entry of such decree, the county clerk shall make a certified copy thereof, and annex the same to the tax record. He shall thereupon deliver such tax record to the county treasurer, in whose office the same shall remain, except as needed in the office of the county clerk. If from any cause the hearing on said petition is not had on the day fixed in the notice therefor, the same shall stand continued from day to day during the term without the entry of any order of continuance, until disposed of, and if it shall for any reason be found impracticable to hear and determine the objections to all of the taxes specified in such petition within the time herein fixed for that purpose, then and in that case the court shall, within the time herein named, make a final decree as to all taxes to which no objections have been filed, and also those to which objections have been filed, which the court has then heard and passed upon. Such decrees shall be signed and recorded as herein before provided. The court shall proceed with the consideration of the remaining taxes embraced in such petition, and objections thereto, and as soon as practicable dispose of the same by one or more decrees and in such form as the court may determine, which shall be entered in the chancery record of decrees of such court, and the same shall describe the lands and specify the total amount of taxes, interest and charges on each parcel thereof. The county clerk shall immediately thereafter deliver to the county treasurer a certified copy of such decree, to be kept and used as herein before provided. Such copy of decree shall be annexed to the Tax Record and shall thereby become a part thereof. If from any cause no decree shall be made on such petition as to the taxes therein named, or any part thereof, the Auditor General shall, as soon as practicable, file a new petition for decree and sale, and proceedings thereon shall be the same and a decree and sale made as herein provided.

Execution for costs.

Judge and clerk to sign decree.

Copy of decree annexed to tax record.

Tax Record, where kept.

Continuance of hearing.

Final decree.

Supplemental decrees.

Copy of decrees to be annexed to tax record.

In case a decree is given in favor of the validity of any disputed tax, and the person contesting its validity desires to appeal to the supreme court, he shall be allowed to do so on paying the amount of the decree to the county treasurer, within ten days after the date of such decree, who shall retain the same until the decision of the supreme court, and pay the same to the party interested, if such tax is held invalid; if held valid then such money shall be credited to the proper fund. By such

Appeal of contestant.

Payment condition precedent.

Appeal of Auditor General or county treasurer.

payment the land in question shall be discharged from the lien of the tax. In case the decision is against the validity of any tax, either the county treasurer or the Auditor General shall have a right to direct an appeal therefrom to the supreme court on behalf of the State, but there shall be no sale for the tax held invalid, until such decision has been reversed or modified by the supreme court.

Chancery practice.

The proceedings where the validity of any tax is in dispute shall, where no other provision is made herein, follow the ordinary chancery practice, and the court may allow amendments as in ordinary cases. Notice shall be given of all appeals to the supreme court, and such appeal shall be claimed, entered and bond for costs given, within twenty days after the making and entering of the decree. When the appeal is taken in behalf of the State, no bond shall be required. The judge shall, at the request of either party and on due notice, settle in proper form a case containing so much of the record and proceedings as may be necessary to the due understanding thereof by the supreme court, and if appeal shall be taken, such case shall be transmitted to such court. An appeal as to the tax on any parcel shall not delay or affect the proceedings for the sale of any land on which there has been no appeal.

Bond on appeal.

Settlement of record on appeal.

DECREE: Surplusage in entitling does not invalidate decree.—*Muirhead v. Sands*, 111 M. 487. Where statutory decree is signed by judge, countersigned by clerk and entered in chancery record, the statute in that regard is fully satisfied.—*Jenkinson v. Auditor General*, 104 M. 34. The questions whether there is a tax due, whether it was properly assessed, and whether proper steps have been taken to charge the land after assessment, are concluded by the decree.—*Muirhead v. Sands*, 111 M. 487. Questions as to validity of tax and regularity of assessment and levy are foreclosed by decree. *Bail v. Ridge Copper Co.*, 118 M. 7. Objection that no certified copy of decree was affixed to Tax Record will not be considered first on appeal.—*Hooker v. Bond*, 118 M. 255. Decree need not repeat descriptions, the Tax Record being part thereof.—*Barnum v. Barnes*, 118 M. 264. Omission in Tax Record of dollar mark or any word or sign to show what figures in decree mean is fatal to sale thereunder.—*Millard v. Truax*, 99 M. 157. See also *Russell v. Chittenden*, 123 M. 546.

An entry of a decree in the Chancery Record is sufficient although there is no calendar entry and no decree is filed.—*Spaulding v. O'Connor*, 119 M. 45.

A variance in date between the decree entered and the certified copy thereof attached to the Tax Record in the county treasurer's office is not a jurisdictional defect invalidating the tax sale proceedings.—*Burns v. Ford*, 124 Mich. 274.

The recording of decree in proceedings to sell land for taxes is the act of the clerk, and his omission does not invalidate a decree properly signed.—*Hoffman v. Pack*, 123 M. 74.

A tax deed issued by the auditor general and unsupported by a valid sale and decree is void.—*Citizens' Sav. Bank v. Auditor General*, 123 M. 511.

The question as to the validity of a decree in tax proceedings cannot be raised in proceedings to quiet title to lands held under such unreversed decree.—*Munroe v. Winegar et al*, 128 M. 309.

The validity of a decree cannot be attacked for matters outside of the record.—*Gage v. City of Saginaw*, 128 M. 682.

CONTINUANCE: Continuance beyond the term can only be by an order duly made and entered, and failing to so make and enter order the court loses its jurisdiction until a new petition is filed.—*Muirhead v. Bergland*, 111 M. 655. Continuance as to particular descriptions, and to a date subsequent to the sale, makes sale impracticable until the next annual sale. For this reason it is very generally desirable that, if the order sustains the tax it provide that if payment is not made before the next petition is filed it be included therein and decree of sale taken when that petition is heard.

TAX RECORD, ETC.: County treasurer's office shall be at the county seat.—Sec. 4, Art. X, Const.; 2547 C. L. '97. See *Rice v. Shay*, 43 M. 380. "County clerk" and "register" interchangeable terms and mean the same officer. Provision as to Tax Record being in county treasurer's office is not unconstitutional. The court can re-possess itself of Tax Record at will. That the Tax Record is to be delivered to the county treasurer, etc., does not render the act unconstitutional as relieving the court from the necessity of entering a complete decree to be retained in its own custody, since the court may at any time re-possess itself of the Tax Record.—*Mersereau v. Miller*, 112 M. 103.

When the Tax Record is delivered to the county treasurer he should see that it contains certified copy of the decree of sale and that the county

clerk has entered in the proper columns the several amounts decreed and all special orders of the court.

Neither the original decree, the affidavit of publication, nor any other paper belonging in the county clerk's office can be filed in the Tax Record. They must be retained by the clerk.

No county, city or township books, records or files shall be removed from the office of the custodian thereof without an order of the judge, etc.—Act 92 of 1899.

APPEAL: Appeal from decree in tax proceedings is properly dismissed for failure to comply with the usual rules of equity practice.—*Carney v. Baldwin*, 95 M. 442. Where owner contesting a tax in proceedings for enforcement fails to raise the objection that two contiguous parcels should have been assessed separately, he is estopped from such objection on appeal granted in such case.—*Auditor General v. Maler*, 95 M. 127. In *Lange v. Circuit Judge*, Mich. Mandamus Cases 922, order to show cause why mandamus should not issue to vacate an order granting a re-hearing after the time for appeal had elapsed, where the petition for re-hearing was without the certificate of counsel as required by Rule No. 81 and the court at the hearing thereof allowed such certificate to be filed nunc pro tunc, and where such certificate is that of the counsel who appeared for the petitioner, was denied.

A point not raised below will not be considered for the first time on appeal.—*City of Menominee v. S. K. Martin Lumber Co.*, 119 M. 201. On an appeal to review the legality of a tax assessment paid under protest only the ground mentioned in the protest will be considered.—*Aurora Iron and Mining Co. v. City of Ironwood*, 119 M. 325. The Supreme Court will not reverse an order or decree in chancery for a mere irregularity not affecting injuriously appellant's interests.—*Kellogg v. Putnam*, 11 M. 344.

Where payment of the taxes is made on appeal as provided in this section the county treasurer is not to make duplicate tax receipt for the taxes until the appeal is decided, but may give the payer a receipt for the amount. If the taxes are finally sustained he should then make duplicate receipts in the usual form, under date of the original payment, taking up the receipt first given and sending the regular duplicate to the Auditor General at once.

ENROLLMENT: Sec. 463-4 C. L. '97. Exact compliance with the rule for enrollment is impossible, but a certified copy of the printed petition, including the list of lands and taxes, may be used in lieu of the original petition (the Tax Record). In this way it would appear to be practicable to enroll the case, and this should be done as soon as the files are complete, including the report of sale, the order of hearing, the proof of publication and the decree or decrees made by the court.

Tax sale is not rendered void by non-enrollment of decree before sale, the general statute not being applicable to the tax proceedings.—*Youngs v. Peters*, 118 M. 45; *Hall v. Mann*, 118 M. 201; *Hooker v. Bond*, 118 M. 255; *Barnum v. Barnes*, 188 M. 264; *Shefferly v. Auditor General*, 120 M. 455. But court may amend decree after the term at which it was entered before enrollment, and no bill of review is necessary in such case.—*First Baptist Church v. Roberts*, 120 M. 704.

See Secs. 66, 70, 98, 100.

Sec. 68. (3891) If for any reason the treasurer of any county shall fail to offer the lands lying therein and included in the decree for sale for delinquent taxes thereon, then so many of such lands so included in such decree as shall not be so offered for sale, shall be considered and treated as if bid off to the State by the county treasurer, and shall be subject to redemption and sale in the same manner and within the same time as may be provided by law in the case of lands actually bid off for the State as provided in this act. All lands bid off for the State as provided in this section shall continue liable to be taxed in the same manner as if not held as belonging to the State, and all such taxes shall be a charge and lien upon such lands as in case of other tax lands, except as hereinafter provided.

State bids.

State tax lands taxable.

Lands acquired by state under this section may be sold under Section 84.—*Mann v. Carson*, 120 M. 631.

If the Auditor General's instructions for the sale are carefully observed there will be no lands that are not sold individuals or bid to the state before the sale is closed.

Sec. 69. (3892) Whenever it shall be satisfactorily shown to the court that any lands included in such petition as delinquent for taxes shall belong to infants, minor heirs, idiots

Lands of incompetent persons.

or insane persons, without guardians or without any other means of support, the court is, in his discretion, authorized to withhold such lands from sale, until a settlement of such person can be made, and a guardian chosen or appointed to protect the rights and interests of such person: *Provided*, Such withholding shall not act to prejudice the lien of the State, county or township for such taxes, or the right to include the same in any subsequent petition for sale as in this act provided. In case of the sale of lands belonging to any infant, idiots, minor heirs, insane or incompetent persons, if it shall appear to any court that it is necessary to protect the rights of such incompetent person, to order any sale canceled, or deferred, it may so order, and in such case all proceedings may be stopped, sale canceled or action stayed until the proper proceedings can be had to protect the rights and property of such incompetent person or persons.

Section applies also to incompetents not under guardianship.—*Foegan v. Carpenter*, 117 M. 89. As to infants rights see *Ballentine v. Clark*, 38 M. 395.

Laches in filing bill to establish his rights is not imputable to a minor nor to any person incompetent to act in his own behalf.—*Dragoo v. Drago*, 50 M. 573. See *Sirr v. Miller*, 121 M. 598.

OF SALE BY COUNTY TREASURER.

Sale of delinquent lands.

SEC. 70. Am. Act 225 of 1897. (3893) Am. Act 262 of 1899.

On the first Tuesday of May, beginning at ten o'clock a. m., the county treasurer shall commence the sale of the lands mentioned in the decree upon which the amounts charged shall not have been paid, and shall continue the same from day to day, Sundays and other legal holidays excepted, until so much of each parcel shall be sold as shall be sufficient to pay such

Each parcel to be separately offered.

amounts. Each parcel described in the decree shall be separately exposed to sale for the total taxes, interest and charges,

Sale of smallest interest.

and the sale shall be made to the person paying the full amount charged against such parcel, and accepting a conveyance of the smallest undivided fee simple interest therein.

Sale at county seat.

No greater interest in any parcel shall be sold than is sufficient to pay the amount of the tax on which the same is sold. If no person will pay the several taxes and charges and take a conveyance of less than the entire thereof, then the whole parcel shall be offered and sold. The sale shall be at the county seat, at the office of or at such convenient place as shall be selected by the county treasurer, and shall be subject to the taxes assessed subsequent to taxes included in the decree

Immediate payment required.

and for the year for which the sale is made. The county treasurer may, in his discretion, require immediate payment of any person to whom any parcel of such land may be struck off, and in all cases where payment is not made in twenty-four hours

Penalty for non-payment.

after sale, he shall declare the bid canceled and sell the land again; and any person to whom any parcel of land shall be so struck off neglecting for twenty-four hours after the close of such sale to pay to the county treasurer the amount of such bid, shall forfeit to the State five times the amount of such bid, and costs of suit therefor, which amount may be recovered in

the name of the people of the State of Michigan in an action of debt, in any court of competent jurisdiction, and it shall be the duty of the county treasurer and prosecuting attorney of the county to prosecute for all such delinquencies and penalties without unnecessary delay. Any subsequent bid of such person made at the sale may be disregarded by the treasurer. If any parcel of land cannot be sold for taxes, interest and charges, such parcel shall be passed over for the time being, and shall, on the succeeding day, or before the close of the sale, be re-offered; and if, on such second offer, or during such sale, the same cannot be sold for the amount aforesaid, the county treasurer shall bid off the same in the name of the State, for the State, county and township, in proportion to the taxes, interest and charges due each. And in such case the taxes assessed on the lands so bid off to the State and the interest and charges thereon, shall remain a lien upon said lands, and any person or persons may thereafter purchase such lands of the State, as State tax lands or otherwise, as provided in this act. The county treasurer shall enter in the proper columns of the Tax Record the interest in lands sold, the name and postoffice address of each purchaser opposite each parcel of land sold, and the word "State" opposite each parcel bid off in the name of the State. Certificates shall be given to each purchaser of the lands and interests bid off by him, showing the year's tax for which he has purchased, and also the amount thereof, and of all charges paid by him at the time of such purchase, stating that he will be entitled to a deed after the period of redemption provided for in section seventy-four has expired, and that if the sale is not confirmed the money will be returned. As soon as possible after the conclusion of any sale, and within twenty days after the day named in the notice for the commencement thereof, the county treasurer shall make and file with the clerk of the court a report of such sale, therein referring to the Tax Record for the particulars thereof. All sales shall stand confirmed, subject to the right of redemption provided for in section seventy-four, unless objections thereto are filed within eight days after the time limited for filing such report, without the entry of an order or further notice. The practice with reference to setting aside such sale shall be the same, so far as applicable, as in a sale in equity on the foreclosure of mortgages: *Provided*, No sale shall be set aside for inadequacy of price, except upon payment of the amount bid upon such sale, with interest and costs: *Provided further*, That no sale shall be set aside after confirmation, except in cases where the taxes were paid, or the property was exempt from taxation. In such cases the owner of such lands may move the court at any time within one year after he shall have notice of such sale to set the same aside, and the court may so order upon such terms as may be just. As soon as practicable after sales are confirmed, the county treasurer shall make full report of the same to the Auditor General, in such form as the Auditor General shall prescribe, giving a description of the

Re-offer of
unsold parcels.

State bids for
several
interests.

Taxes and
charges con-
tinue a lien.

Entry of sale,
etc., in tax
record.

Certificates of
sale.

Report of
sale.

Confirmation.

Sales set
aside.

Proviso.

County treas-
urer to report
to Auditor
General.

Auditor General to issue deeds.

Lands bid to state taxable.

Unsold lands readvertised.

Purchaser shall also take from state tax land list.

Void sales.
Money receivable.

Proceeds paid to state treasury.
Payment of expenses.

property sold. the amounts for which the same was sold, and the names and address of the purchasers, and thereupon the Auditor General shall, after the period of redemption provided in section seventy-four has expired, execute deeds to the purchasers in such form as shall be determined by him. All lands bid off in the name of the State shall continue liable to be taxed in the same manner as if they were not the property of the State except as hereinafter provided. If from any cause the lands, or any parcel thereof decreed for sale by the Auditor General, shall not be sold as advertised, it shall be the duty of the Auditor General to cause sale to be made at such other time as he may fix for that purpose, of which notice shall be published at least four weeks prior to such day, and such notice shall contain a description of the lands and the amount claimed thereon, as hereinbefore provided in the first instance. The sale and all proceedings thereon shall be the same as if made on the first day fixed therefor: *Provided*, That if any parcel sold under the provisions of this section shall also be offered at the same sale as State tax lands, the purchaser must also at the same time become the purchaser from the State tax land list, and pay the taxes, interest and charges remaining unpaid thereon, for all years for which such land is held as State tax land. All sales made in contravention of this requirement shall be void. The several county treasurers shall receive on such sale only such funds as shall be receivable at the State Treasury, and all moneys received at any tax sales that belong to the State shall be paid into the State Treasury, and the expenses of advertising and sale shall be paid therefrom on the warrant of the Auditor General, and the remainder shall be placed to the credit of the general fund.

In all proceedings to collect the taxes after they are returned to the Auditor General or to sell the lands to enforce payment, the county treasurer is the agent of the Auditor General and does not act as a mere county officer.—*Palmer v. Rich*, 12 M. 414. See Secs. 93-4. But in conducting tax sales is not acting as agent of the State in such a sense as to put his action in this regard outside his official duties as treasurer and thereby make the loss by his default in accounting for the moneys received by him on such sales that of the State and so not chargeable to the county under the statute.—*Attorney General v. Supervisors St. Clair Co.*, 30 M. 388. The statute imposes upon the Auditor General the entire authority and control over the sale of lands delinquent for taxes. The county treasurer in making the sale acts under his direction.—*Clark v. Mowyer*, 5 M. 462. The Auditor General cannot directly or indirectly postpone tax sales beyond the date fixed by law.—*Houghton Co. v. Auditor General*, 41 M. 28. If on re-offer before close of sale it is found impossible to sell, land may then be bid to State; not necessary that sale be kept open 20 days.—*Barnum v. Barnes*, 118 M. 264. But such re-offer should not be until after the first offer has been made of the entire list of descriptions, and in no event before the second day of sale.

In *Taylor v. Snyder*, Walker's Chan. Rep. 400, party interested in certain land attended tax sale, but was prevented from buying by the fraudulent conduct of one to whom the land was struck off, but who failed to pay. On a subsequent day, in the absence of the interested party, the sale was made to another, in privacy with the one to whom the sale was first made. Held, that in a bill to have the sale declared fraudulent and void it was not necessary to offer to refund the money paid by the purchaser for the tax title fraudulently obtained by him, and that he must lose what he paid.

A purchaser from the county treasurer of state tax lands does not have to pay the taxes then a lien.—*Munroe v. Winegar*, 128 M. 309.

A tax sale made by a clerk in the office of the treasurer is void. Official acts must be performed by an officer.—*Hall v. Collins*, 117 M. 617.

The certificate of purchase showed that the complainant purchased the whole tract, but the record of county treasurer showed a purchase of 5/8. The court says when the certificate and entry conflict the entry should be treated as the original entry.—*Kneeland v. Hull et al.*, 116 M. 55.

WHO MAY PURCHASE: See notes to Secs. 72 and 84. Purchase by mortgagee.—*Fells v. Barbour*, 58 M. 49. Also *Porter v. Corbin*, 124 M. 261.

A book kept by a county treasurer containing statements of various tax sales, the names of the purchasers and other items connected therewith, though not such a book as was distinctly required by any statute to be kept, held to be an official book and admissible as evidence to prove the facts therein stated.—*Groesbeck v. Seeley*, 13 M. 329.

Order of confirmation not necessary to the validity of sale. Owner not having moved to set aside sale within eight days provided for confirmation cannot thereafter in a collateral proceeding attack the sale on the ground that treasurer's report to the court did not show that the land had been offered a second time before it was bid to the state.—*Hilton v. Dumphy*, 113 M. 241. Sale stands confirmed without the entry of an order unless objections are filed within the statutory period.—*Conley v. McMillan*, 120 M. 694.

Neither county treasurer nor his deputy may purchase at tax sale.—*Walt v. Gardiner*, 123 M. 236. See also *Porter v. Corbin*, 124 M. 261.

One holding under contract cannot acquire title against his grantee.—*Curran v. Banks*, 123 M. 694.

One whose duty it is to pay taxes cannot obtain a tax title separate and distinct from the original title.—*Clippinger v. Auditor General*, 10 D. L. N. 664.

In purchasing at a tax sale the state holds as an individual.—*Auditor General v. Supervisors*, 36 M. 75. See also *Conn. Mutual Life Ins. Co. v. Wood*, 115 M. 444.

REPORT TO CLERK: Failure of county treasurer to make and file report of sale invalidates sale.—*Millard v. Truax*, 99 M. 157. Report of sale lacking details, but referring to Tax Record, etc., held sufficient.—*Jenison v. Conklin*, 114 M. 8. Report of sale when filed with clerk, where statute contemplates it is to remain, operates as notice to all concerned, but cannot be regarded as thus filed when it is attached to the tax record. Although filing report is a condition subsequent to the sale, such filing, for the purposes of giving effect to the deed and the vesting of title, must be treated as a condition precedent. Purchaser is bound to see the law has been complied with. Report of sale cannot be amended after period of redemption has expired.—*Jenkinson v. Auditor General*, 104 M. 34. Curative provisions of Section 99 do not apply to failure to file report.—*McFadden v. Brady*, 120 M. 699.

REPORT TO AUDITOR GENERAL: Report to Auditor General dated on day fixed for sale is erroneous; should be dated on conclusion of sale; but defect was cured by confirmation. No precise time is fixed for making report to Auditor General and report made ten days after confirmation held to be within reasonable time.—*Detroit F. & M. Ins. Co. v. Wood*, 118 M. 81. County treasurer has a reasonable time in which to make his report to Auditor General.—*Youngs v. Peters*, 118 M. 45.

Parties having rightful possession of land may before the time of redemption expires lawfully take from the premises whatever the removal of is not injurious to the freehold. As to what constitutes waste, see *Ward v. Carp River Iron Co.*, 47 M. 65; *Webster v. Peet*, 97 M. 828.

ACTION TO SET ASIDE: A much stronger case must be made to set aside a sale under a decree in chancery after confirmation of the report of sale than before.—*Bullard v. Green*, 10 M. 268. A purchaser under decree must ascertain at his peril whether the decree was warranted or not, and though the time for appealing from the decree had expired when he purchased, he cannot claim immunity from the effects of a subsequent order without notice to him setting the decree aside as unwarrantably entered.—*Blitson v. Dodge*, 33 M. 463. Purchaser at a judicial sale must be considered as having submitted himself thereby to the jurisdiction of the court as to all matters connected therewith; and when he has notice of a motion to set aside the sale, and in answer thereto appears and without objection goes to a hearing on the merits, he is not in position to afterwards object to the power of the court to decide such motion.—*Blair v. Compton*, 33 M. 414. Payment or offer of so much of the tax as is equitable must be made before proceedings to vacate the sale. A bill in equity will not lie to set aside a sale because of non-judicial irregularities that work no injury.—*Sinclair v. Learned*, 51 M. 835. In *Wiley v. Circuit Judge, Mich. Mandamus Cases 710*, order to show cause why mandamus should not issue to compel respondent to reopen a decree (in June, 1891) after sale made in May, 1890, and allow relator to file answer was denied. Claim not included in petition filed to set aside sale cannot be considered on appeal.—*Hall v. Mann*, 118 M. 201.

If the taxpayer petitions the court in chancery in the Auditor General's proceedings to foreclose a lien the court will compel him to do equity.—*Conn. M. L. Ins. Co. v. Wood*, 115 M. 444.

Provision and that in Sec. 98 are concurrent.—*Wood v. Bigelow*, 115 M. 23; *Kneeland v. Wood*, 117 M. 174. Sale will not be vacated for the reason that the property is valuable and the amount of the taxes is small.—*Nester v. Church*, 121 M. 81.

In direct proceeding to set aside an irregular decree the rule that "a record is conclusive evidence of its own verity" is not applicable.—*Wilkin v. Keith*, 121 M. 66.

Equitable relief.—See *Albany & Boston Mining Co. v. Auditor General*, 87 M. 891. One who seeks relief from a void tax sale in a court of equity will be compelled to do equity.—*Connecticut Mutual Life Insurance Co. v. Wood*, 115 M. 444. Bill in chancery to impeach decree establishing title must be brought within a reasonable time.—*Campau v. Van Dyke*, 15 M. 871. No ground for setting aside decree of sale that there was not sufficient time between final publication and time fixed for hearing for non-resident land owner to reach place of trial from his place of residence.—*Waldron v. Auditor General*, 109 M. 231.

A court of chancery has no power to open a decree in tax proceedings for

mere irregularities of procedure upon a petition filed after confirmation of sale.—*Spaulding v. O'Connor*, 119 M. 45. A chancery judge has no authority to grant leave to file a bill of review for the purpose of setting aside a tax sale after confirmation of the sale, unless a total want of jurisdiction to make the decree is shown or one of the two causes mentioned in Sec. 70 of the tax law exists, and the hearing must be confined to these causes.—*Berkey v. Burchard*, 119 M. 101-105; *Brooks v. Auditor General*, 119 M. 829.

Where a land owner with full knowledge of all the proceedings permits his land to be sold for delinquent taxes and allows two years to elapse without taking any steps provided by law to test the validity of the proceedings, he cannot thereafter, and after third parties have become interested in products severed from the land, file a petition to reopen the decree entered in the original proceedings.—*Cook v. Hall*, 123 M. 378.

Proceedings in chancery for the sale of lands delinquent for taxes on petition of the Auditor General are pursuant to a special and limited authority conferred by the statute and the rule which obtains in cases which fall within the ordinary jurisdiction of chancery courts that if the court has jurisdiction of the parties and the subject matter its decree though erroneous is binding until set aside, is not applicable to such proceedings.—*Wood v. Bigelow*, 115 M. 123.

A sale made by the Auditor General under the provisions of the tax law of 1899 will not be vacated in a direct proceeding solely on the ground that the report of sale failed to show that the land was reoffered for sale as provided by Sec. 62 of the tax law of 1889, where affidavits were presented to the effect that the sale was properly made and there was no proof offered to the contrary.—*Dumphy v. Auditor General*, 123 M. 354.

See Secs. 72, 80, 106, 144.

Under C. L. Sec. 3893, providing that no sale of land for taxes shall be set aside after confirmation, except in cases where the tax had been paid or the property was exempt, a complainant in a bill of review to set aside a confirmed sale, where there is no showing that the taxes were paid or the land redeemed or exempt, is not entitled to the relief prayed if the court obtained jurisdiction in the tax sale proceedings, and so far followed the statute as to retain it.

C. L. Sec. 3885 provides that, on the Auditor General filing a petition for a sale of lands for taxes, the county clerk shall present it to the circuit judge, who shall make an order setting the petition for hearing and providing for the sale, which order shall be countersigned by the clerk as register in chancery, and shall be recorded by him in the proper book of his office, a copy of which the clerk shall thereupon send to the Auditor General.

Sec. 3889 declares that the publication of the petition and order shall be equivalent to personal service of notice of the sale. Held, that the requirement of the recording of the court's order is not jurisdictional, so as to invalidate the tax sale proceedings on account of a failure to record it at length.

A variance in date between the decree entered in the circuit court for the sale of lands for taxes on the petition of the Auditor General and the certified copy thereof attached to the tax record in the county treasurer's office under which sale is had is not a jurisdictional defect invalidating the tax sale proceedings.

Where a county treasurer's report of a tax sale to the Auditor General, made before its confirmation, shows that, in every case where parcels are marked as having been bid in by State, such parcels, on being originally offered, were passed over for the time being, and were reoffered before the close of the sale, but could not be sold for the total amount of the taxes, interest, and charges against them, and that thereupon and for that reason the county treasurer bid off the same in the name of the State, such report is not defective, as failing to show that the lands were duly offered in their regular order, nor, if it were, would that be a jurisdictional defect, invalidating the tax sale proceedings.

Where the State purchases land for taxes for a certain year, and the defendant purchases the State's title, and at the same time purchases the lands for the taxes of the succeeding year, and the sale for the taxes of the succeeding year is void, it is not a tenable objection to defendant's title that, as it does not appear that he would have purchased the State's title except that he wanted to bid for the taxes of the succeeding year, the purchase of the State's title should fall with the other.—*Burns et al. v. Ford et al.*, 124 M. 274.

Leave to file a bill of review will not be granted in a tax proceeding after confirmation of sale, where the parties seeking relief have been guilty of laches and rely upon a technical point rather than a meritorious one, and relief may be denied notwithstanding an irregularity in the decree, where equity and justice demand it.—*Tromble v. Hoffman*, 9 D. L. N. 183.

"The practice with reference to setting aside such sale shall be the same, so far as applicable, as in a sale in equity on the foreclosure of mortgages" should be held to apply only to the procedure in the suit brought by the Auditor General where, in that proceeding, the sale is attacked.—*Croskery v. Busch*, 116 M. 288.

Where objections to the sufficiency of proceedings in tax cases are not made in the trial court, such objections will not be reviewed on appeal.—*Auditor General v. Chase*, 10 D. L. N. 34.

No sale will be set aside for irregularity even within one year except where tax was paid or land exempt, although Sec. 73 fixes five years.—*Spaulding v. O'Connor*, 119 M. 45. See also *Aztec Copper Co. v. Auditor General*, 128 M. 615.

The omission to reoffer was an irregularity merely.—*Dumphy v. Auditor General*, 123 M. 354.

A decree may be set aside by petition after one year where the court had no jurisdiction to make it providing the petitioner shows strong equities in his favor and has not been guilty of laches.—*Aztec Copper Co. v. Auditor General*, 128 M. 615, citing *Spaulding v. O'Connor*, 119 M. 45, and *Benedict v. Auditor General*, 104 M. 269.

Leave to file a bill of review will not be granted in a tax proceeding after confirmation of sale, where the parties seeking relief have been guilty of laches and rely upon a technical point rather than a meritorious one, and relief may be denied notwithstanding an irregularity in the decree, where equity and justice demand it.—*Tromble v. Hoffman et al.*, 9 D. L. N. 183.

In view of Section 70 providing that no sale shall be set aside after confirmation except where tax was paid or the property exempt, a sale made pursuant to a decree * * * whether enrolled or not, cannot be set aside after confirmation because the taxes were not paid through oversight of the owner's agent, and the owner did not discover it until after confirmation.—*Brooks v. Auditor General*, 119 M. 329.

The objection to tax titles that the land had been bid in by the State for the previous years, and was still held by the State cannot be raised collaterally.—*Hoffman v. Pack*, 123 M. 74.

RULES FOR SALE: The following are among the rules prescribed by the Auditor General for the annual tax sales by county treasurers:

At each adjournment public announcement should be made of the hour to which adjournment is had, but no adjournment should be made beyond the day following the day on which adjournment is had, except that adjournment from Saturday should be to the following Monday.

The sale should be concluded as soon as is practicable, but in no case should final adjournment be had until every description on the Tax Record (not withheld from sale) has been offered, and until such descriptions on the Tax Record as have not been sold on the first offer have been reoffered on a day subsequent to the day on which they were first offered, and in the same manner, and until each description on the State tax land list has been so offered and reoffered. When all this has been done the sale should be closed and reported.

No sales can be made except at public sale. County treasurers have no authority to sell, either from the Tax Record or the State tax land list, at private sale, and sales so made would be voidable, if not actually void. No valid sales can be made by county treasurers before the sale opens, during any adjournment, or after the public sale is closed.

The descriptions found in the Tax Record and not withheld from sale are to be offered first, except where any description or any part thereof is held on the State tax land list, in which case the description so held must be sold from the State tax land list at the same time as from the Tax Record, and to the same buyer.

Where a description is offered for sale and is bid to nothing, do not issue a certificate of sale, but treat it as a payment of the taxes and issue duplicate receipts.

When a parcel of land is advertised and is on the Tax Record for taxes of more than one year, do not sell for either year unless the bidder also purchases for the taxes of all years on said Tax Record.

In case objections to the confirmation of sales are filed within the time limited, entry on the original Tax Record should be made by the county clerk.

Sell each description as decreed, unless a part of the description is withheld from sale in accordance with a special decree of the court or upon instructions from this department, or the taxes thereon are paid, in which case you will offer the balance.

In no case shall any description be altered or amended. Sell the whole description offered to one individual, firm or corporation. If it cannot be so sold, bid the whole description to the State, after offering it a second time on the day following the day on which it was first offered, or before the close of the sale.

In all cases of sale, either to an individual bidder or to the State, enter the interest sold. If the entire interest offered is sold enter the word "entire;" if an undivided interest (less than the interest offered) is sold, enter the proper fraction denoting the undivided interest sold. The omission to enter the interest sold would be just as fatal as to omit entry of the fact of sale.

Any person purchasing a description from the Tax Record, which description, or any part thereof, is for sale upon the State tax land list, must be required to purchase the description as offered in said list, otherwise description must be bid to the State. This is imperative, and sales made in contravention thereof are void.

Do not include in any certificate of purchase several descriptions bid in by any one buyer, but make a separate certificate for each description.

Every certificate of sale must bear the same number as that by which the description is indicated in the Tax Record (or State tax land list) from which the sale is made.

The practice of permitting any one to select descriptions before or during the sale and of treating such descriptions as sold to such buyer is distinctly contrary to the provisions of law. No sale can be made from either the Tax Record or the State tax land list except as the description is offered for competition, and sold to the highest bidder, if from the State tax land list, or to the one offering to pay the taxes and charges and take the smallest undivided interest, if from the Tax Record.

Each and every parcel against which decree has been entered must be separately exposed for sale, unless paid before sale or lawfully withheld. This requirement of the law cannot be satisfied by a general offer of the list.

If sale cannot be made when the parcel is first offered, such parcel must be reoffered on the succeeding day, or on some day subsequent thereto and before the close of the sale; and such reoffer should be in the order in which unsold parcels appear in the Tax Record. Descriptions must not be bid to the State until after they have been offered at least once after they were first offered; and while a description may be reoffered on the first day of the sale, no de-

scription should be bid to the State until reoffered on the second day of the sale or later, and after each and every description on the list has been offered once.

After all unsold descriptions on the list have been reoffered, and before the close of the sale, each successive description unsold must be bid to the State.

Sale must be made for the least undivided interest, and the entire interest must not be sold unless sale to an individual, firm or corporation is impossible for a less interest than the entire; but the interest bid to the State must be the entire interest.

After sales from the Tax Record have been completed, including the sale of the same description on the State tax land list (if found thereon), then proceed to offer the remaining descriptions on the State tax land list, observing particularly in regard to all sales from said list that no bid can be accepted unless for the full amount due, and for the entire description or group of description as appears on said list. Sale of undivided interest in lands on the State tax land list cannot be made, unless the description was so bid to the State.

If there is competition for any description or group of descriptions on the State tax land list, sale must be made to the highest bidder, but no bid can be accepted for less than the amount for which the description or group of descriptions is held on said list; and in such case sale can only be made for the same undivided interest for which the description was bid to the State.

If several descriptions are grouped or braced together on the State tax land list, no part of the land so grouped can be sold without purchase of the entire group, nor for less than the aggregate amounts for which all descriptions so grouped are held on said list; and sale of the entire description or group of descriptions must be made to one individual, firm or corporation. *Act 263 of 1897 is not applicable to sales made by county treasurers at the annual tax sale.*

Withhold from sale all descriptions on either list upon which the taxes have been paid to the town treasurer, twice assessed not subject to taxation, or so incorrectly described as to have been subject to rejection when returned.

Give in the certificate of sale, and also enter in the Tax Record and the State tax land list, the full name and postoffice address of every individual, firm or corporation to whom you strike off a parcel of land. Do not use initials where the full name is obtainable. In case of sale to a firm enter and make certificate in the names of the individuals composing the firm and not in the firm name.

If the amount of any bid is not paid within 24 hours after it is made, cancel the sale and reoffer the description. *You may demand immediate payment,* but if you do not cancel the sale at the expiration of the time named it cannot thereafter be canceled because of non-payment. In such case you must be considered as having personally assumed the payment of the amount of the bid.

Certificates
of sale.

SEC. 71. Am. Act 154 of 1895 and Act 225 of 1897. (3894)

At the sale aforesaid the respective county treasurers shall give to the purchasers, on the payment of the bids, a separate certificate in writing for each parcel, describing the lands purchased and the amount paid therefor, the name of the person to whom the same was issued, the number, date and amount of each certificate, and such certificate shall be regularly numbered and entered in the book kept for that purpose and designated as the tax record. Such certificate shall be in substantially the following form:

Form.

STATE OF MICHIGAN, } ss.
County of

County Treasurer's Office.....A. D. 18..

I, ..., county treasurer of the county of, in said State, do hereby certify that I did, at public auction, pursuant to notice given as by law required, on this.....day of.....A. D. 18..., sell to of, the lands herein described, for the sum of.....dollars and cents said sum being the amount due and unpaid for taxes, interest and charges on said lands for the year of our Lord one thousand eight hundred and....., that the said..... his heirs or assigns, will, if said sale stands confirmed, be entitled to a deed of conveyance of said lands, after the first Tues-

lay in May in the year following the sale thereof as herein evidenced, unless sooner redeemed from such sale according to law. Said lands are described as follows, with the sum for which they were sold set opposite each description, that is to say: [Here insert description, and the amount bid therefor.]

.....,

County Treasurer.

Purchaser has no title until time for redemption has expired.—Cooley on taxation, 542. Certificate of tax purchase will cloud title if deed to be issued thereon would establish presumptive title adversely. Assignment of a certificate of tax purchase that is regular on its face is a valuable consideration.—Stoddard v. Prescott, 58 M. 542. Where record of sale and certificate issued conflict, record governs.—Kneeland v. Hull, 116 M. 55. See Secs. 72, 115.

SEC. 72. (3895) On presentation of such certificate of sale to the Auditor General or his deputy, after the expiration of the time provided by law for the redemption of land sold as aforesaid, the Auditor General or his deputy shall execute and deliver to the purchaser, his heirs or assigns, a deed of the land therein described, unless the sale thereof shall have been redeemed or annulled as by law provided, which deed shall be entitled to record in the office of the register of deeds of the proper county, in the same manner and with like effect as other deeds duly witnessed, acknowledged and certified. Such deeds shall convey an absolute title to the land sold, and be conclusive evidence of title, in fee, in the grantee, subject, however, to all taxes assessed and levied on such lands subsequent to the taxes for which the same was bid off. The courts may, on application, put the purchaser in possession of the premises by writs of assistance. In the case of the loss of such certificate of sale, the purchaser or his legal representative or assignee, may file his affidavit of such loss, and that he was at the time of such loss the *bona fide* and legal holder thereof; and the Auditor General or his deputy shall thereupon execute, as aforesaid, a deed for the lands described in such certificate, if the same shall not have been redeemed, in the same manner as though it had been presented and surrendered; and if the same shall have been redeemed, on the presentation of such affidavit the money shall be paid to such person in the same manner as though the certificate of sale had been surrendered. Any person who shall make an affidavit as above required, or concerning any other matter which may be filed in the office of the Auditor General, shall be liable to the penalties of perjury for any false statement made in such affidavit with intent to defraud, upon conviction thereof, before a court having jurisdiction of the offense.

Auditor General to issue deeds.

Deeds entitled to record.

Deeds convey absolute title.

Writs of assistance.

Loss of certificate.

Refunding of redemption.

Penalty for false affidavit.

A deed of quit-claim and release of the form in common use shall be sufficient to pass all the estate which the grantor could lawfully convey by a deed of bargain and sale.—8957 C. L. '97. Power of Auditor General to convey lands cannot be assumed from authority to sell for taxes, but must be expressly conferred by statute.—Sibley v. Smith, 2 M. 456.

Duty of grantor under Auditor General's deed to record his deed on request of grantee.—9029 C. L. '97.—Fee for recording.—11227 C. L. '97. Deputy Auditor General may sign tax deed in his own name when Auditor General is sick or necessarily absent, and the presumption in favor of official action lies in the absence of any direct showing that the Auditor General was absent or sick.—Westbrook v. Miller, 56 M. 148. See 98 C. L. '97 and Drennan v. Herzog, 56

M. 467; *Fells v. Barbour*, 58 M. 49. A deed to a non-existent grantee is void.—*Skinner v. Mt. Clemens*, 54 M. 543. A deed need not recite proceedings prior to sale.—*Silbey v. Smith*, 2 M. 486. The omission to record a deed does not divest grantee's title.—*Smith v. Fitting*, 37 M. 148. Validity of tax deed does not depend upon its being recorded when no question of priority is raised.—*Fells v. Barbour*, 58 M. 49. Purchaser as between himself and the owner of other lands is bound at his peril to take notice of description in his own deed, and if he or his grantees make a mistake and go on the lands of others, they must bear the consequences.—*King v. Potter*, 18 M. 134.

Where the words in deed adopted by Auditor General are those provided by 9015 C. L. '97; deed operates to convey title to the grantee.—*Mann v. Carson*, 120 M. 631; *Dawson v. Peters*, 119 M. 274. A tax title if valid destroys and cuts off all liens and incumbrances previously existing against the land even homestead and dower rights.—*Robbins v. Barron*, 32 M. 36. Purchasers of tax titles take no more than the deed gives them.—*Reilly v. Blaser*, 61 M. 399. Sale under law of 1893 if valid operates to vest in the purchaser an absolute title in fee whether that purchaser be the state or a private individual.—*Connecticut Mutual Life Ins. Co. v. Wood*, 115 M. 444. One cannot maintain an action to quiet his tax title or set up as a defense against the original owner until he has obtained his deed.—*Boardman v. Boozwinkle*, 121 M. 320.

Purchaser acquires an inchoate title subject to be defeated by redemption within the statutory period. In *Stout v. Keyes*, 2 Douglass 184 (a mortgage sale), held that when purchaser's title becomes absolute by the failure to redeem, it relates back to the time of the purchase and he may, therefore, after his title is thus perfected, maintain an action for injury done to the estate maliciously, and with knowledge of his rights, by the cutting and carrying away growing timber, after the purchase and before the expiration of the time for redemption, and that case is the proper common law remedy; but in *Hess v. Griggs*, 43 M. 397, it was held that a tax deed cannot relate back to the time of the sale for the purpose of making parties trespassers by reason of acts done on the lands before the deed was given. For some purposes such a deed may relate back to the time of the sale. In some cases the occupants of lands may be liable for waste under such circumstances.

A tax title relates back to the date of purchase for all purposes of effecting substantial justice but not otherwise.—*Conn. Mutual Life Ins. Co. 1. Bulte*, 45 M. 113. In an action of trespass to lands where the plaintiff is not in actual possession but bases his right upon a legal title and the constructive possession claimed to be drawn therefrom, evidence of tax titles held by third persons is admissible, such titles being *prima facie* paramount, and therefore unless overcome, defeating plaintiff's right of action.—*Tolles v. Duncombe*, 34 M. 101. A defendant in trespass who entered into possession under a tax deed and cleared up and fenced a portion of the land and planted a crop and was in actual possession, claiming under said deed, is in position to contest plaintiff's title, the deed though conceded to be void, giving him color of title to the whole premises.—*Hecock v. Van Dusen*, 80 M. 359. Claimant under a void tax title is not in a position to contest the title of one in possession of the land, having no interest in the equities between the parties to the action.—*Loose v. Navarre*, 95 M. 603.

The State does not guarantee tax titles except as statutes may provide for it, and in all other cases the purchaser must be content with such interest as he gets under his tax purchase. The State does not assume any responsibility for irregular conduct on the part of the local taxing officers; and the tax purchaser has the same means of ascertaining the legality of the tax that are possessed by any of the State authorities.—*Rice v. Auditor General*, 30 M. 123. A grantee is chargeable with notice of whatever appears in the chain of titles through which he claims.—*Fitzhugh v. Barnard*, 12 M. 104. Purchasers at public judicial sale or under a quit-claim deed usually buy at their own risk of the regularity of title.—*McGoren v. Avery*, 37 M. 120. Parties purchasing titles under judicial sales get only that which can be lawfully sold.—*Walsh v. Varney*, 38 M. 73.

Statutory provision for quieting title, 448 C. L. '97, not repealed by general tax law.—*Canal and Railway Co. v. Auditor General*, 79 M. 351. In action to quiet title under tax deed, if defendant desires to impeach the *prima facie* title set up in the bill he must set forth specifically facts which if proved would defeat the tax sale.—*Wagar v. Bowley*, 104 M. 38. Where taxes are a valid claim and legally assessed, but there are defects in enforcement rendering the levy invalid, cloud can only be removed on condition of payment of tax.—*Hamilton & Merryman Co. v. Township of L'Anse*, 107 M. 419. Assignee of mortgage made by one in possession under tax deeds which are not attacked having foreclosed his mortgage has a perfect title, which cannot be detracted from by conveyance made after the tax sales by receiver to whom holder of original title conveyed the land under order of court before the tax sales.—*Sherer v. Judson*, 100 M. 539.

If the taxpayer is in possession and files a bill to remove a cloud from the title, the court may then compel him to do equity.—*Conn. M. L. Ins. Co. v. Wood*, 115 M. 444.

In *Lillie v. Snow*, 118 M. 611, held that one who acquired title by tax deed and obtained possession by paying tenant a consideration, had the right to file bill under 488 C. L. '97 to quiet title.

Where a county treasurer, to whom money was sent with instructions to apply it in payment of taxes on certain lands, without stating the year's taxes to be paid, applied it to the purchase of the lands for the taxes of 1893, and took certificates in the name of a deceased owner, who devised the lands to plaintiff, and deeds were afterwards made to such deceased owner, such deeds were

nullities, as running to a grantee not in existence, and did not operate to cut off defendant's tax title to the lands, based on a purchase for the taxes of 1892.—*Paine v. Boynton*, 124 M. 194.

DEED AS EVIDENCE OF TITLE: It is not within the province of the legislature to deny the right to defend title against a tax deed. The legislative intent was that the deed should be evidence of a title in fee simple after the right to give the deed was shown by proof of a valid decree.—*Taylor v. Deveau*, 100 M. 581. See also *McKinnon v. Weston*, 104 M. 642. Provision making tax deed conclusive evidence of title does not render the act void.—*Ball v. Ridge Copper Co.*, 118 M. 7.

Tax deed is presumptively valid; its invalidity is not to be inferred from ambiguous facts or from a failure to find facts.—*Stockle v. Silsbee*, 41 M. 615. Sec. 72 does not purport to make the deed evidence that the sale was regular, nor does it purport to make the deed evidence, even prima facie, of the truth of the recitals contained therein. One relying upon such a deed must show a valid decree and the sale thereunder.—*Dawson v. Peters*, 119 M. 274. If the proceedings to foreclose tax liens show upon their face want of jurisdiction the deeds issued thereunder are void; but the jurisdiction cannot be attacked by evidence de hors the record.—*Watts v. Bublitz*, 99 M. 580.

Two tax deeds, one of which conveys to the grantee an undivided three-fourth of the land for delinquent taxes of a specified year, and the other an undivided one-third for delinquent taxes of the succeeding year, do not necessarily convey the entire title to the purchaser.—*Laird v. Coach*, 112 M. 628. Owner of land can maintain trover for timber by one claiming under void tax title where the possession was for the sole purpose of cutting the timber.—*Moret v. Mason*, 106 M. 340.

Further as to tax deed as evidence of title see *Lacey v. Davis*, 4 M. 140; *Groesbeck v. Seeley*, 13 M. 329; *Wright v. Dunham*, 13 M. 414; *Blackwood v. Van Vleet*, 30 M. 118. See notes to Sec. 77.

WRIT OF ASSISTANCE: A writ of assistance is the regular process for carrying out a decree of possession. Its object is to compel parties who are bound by a decree to give up the possession which they hold as mere tenants at sufferance and which by the decree and sale under it, they have become estopped from further asserting. A writ of assistance can never be proper where there is any real controversy as to the right of possession not precluded by the decree and sale.—*Ramsdell v. Maxwell*, 32 M. 285. A writ of assistance is proper only where a party concluded by the proceedings refuses to give up possession upon request, and it should not be granted without proper evidence of such refusal after the right of possession is established.—*Howard v. Bond*, 42 M. 131. Application for writ must be made to circuit court.—*Ryerson v. Eldred*, 18 M. 145.

Held error for the trial court in proceedings to set aside a tax decree instituted prior to the hearing of an application for writ of assistance to decide the case solely upon the pleadings and to refuse to allow petitioner to introduce testimony in support of the allegations in the writ of assistance.—*Roberts v. Loxley*, 121 M. 63. Purchaser of land under decree in tax proceedings cannot be compelled to resort to a court of law to gain possession and is entitled to introduce competent testimony as he desires in the case.—*Beck v. Finn*, 121 M. 21.

Where upon the hearing upon application for writ of assistance it is shown that the owner of the land has made an application to the county treasurer for a statement of all taxes against the land and had paid the amount reported by the treasurer as due for taxes, the appellate court will defer the issuance of the writ of assistance and give the owner an opportunity to make application to the Auditor General for a certificate of error; or to apply to the court if that right is not lost by the lapse of time.—*Mann v. Carson*, 120 M. 631.

Section not unconstitutional in that it deprives owner of right of trial by jury. The inquiries upon filing petition for writ of assistance are (1) whether the court had jurisdiction to render the decree; (2) whether all the steps required by the statute have been taken in making the sale, filing the report of sale, etc.; (3) whether the time for redemption has expired. The rules for the enforcement of a decree in a foreclosure proceeding are applicable to the enforcement of a decree in tax proceeding.—*Ball v. Ridge Copper Co.*, 118 M. 7; *Youngs v. Peters*, 118 M. 45. Remedy against writ of assistance is by appeal.—*Aldrich v. Wayne Circuit Judge*, 111 M. 525.

An order of the circuit court denying a writ of assistance and holding a tax sale void in a proceeding in which the Auditor General was not a party, may be reviewed on a petition for mandamus to compel the Auditor General to refund the taxes held void under the decree.—*Newton v. Powers, Auditor General*, 9 D. L. N. 445.

On an application for a writ of assistance it was competent for the opposing party to show that the decree on which such application was based was void for want of jurisdiction.—*Peters v. Youngs*, 122 M. 484.

See Sec. 137.

WHO CANNOT ACQUIRE TITLE: An agent who is authorized to sell property for the best price that can be obtained for it cannot become the purchaser either in his own name or that of another.—*Ingerson v. Starkweather, Walker's Chan. Rep.* 346. An agent for the sale of property under a contract with the owner acts in a fiduciary capacity and cannot acquire an adverse title by purchasing the premises at foreclosure sale in his own name.—*Kimball v. Ranney*, 122 M. 160. No one without express authority of law can become a purchaser of property which it is his duty to sell for the best price it will bring.—*Ames v. Booming Co.*, 11 M. 139. The law will not permit an agent to act for himself and his principal in the same transaction, as to buy of himself as agent the property of his principal and the like. Public officers are agents within this

rule.—People ex rel. Plugger v. Township Board of Overisel, 11 M. 222. See Walton v. Torrey, Harrington Chan. Rep. 259.

County treasurer conducting tax sale cannot be a purchaser. Sale conducted by clerk in office of county treasurer who represented the purchaser held void. County treasurer should not act for a purchaser because the two interests are conflicting.—Hall v. Collins, 117 M. 617. Neither the county treasurer nor his deputy can purchase at annual tax sale.—Wait v. Gardner, 123 M. 236. Agent for sale of property has no right to make himself the agent of others for the purchase of the property.—Moore v. Mandelbaum, 8 M. 433.

Purchaser, if owner of interest sold acquires no title.—Ligare v. Semple, 31 M. 437. One in possession of land claiming title can acquire no additional interest by suffering the land to be sold for taxes and becoming the purchaser. If such taxes were a lien upon the land at the time of his taking possession and it is immaterial whether the land is assessed to the occupant or otherwise.—Lacey v. Davis, 4 M. 140; Day v. Cole, 65 M. 129. But to preclude any person from making and relying upon a purchase of lands at tax sale there must be something in the circumstances of the case which imposes upon him a duty to the State to pay the tax or something which renders it inequitable as between himself and the holder of the existing title that he should make the purchase.—Blackwood v. Van Vleet, 30 M. 118. See also Gilman v. Riopelle, 18 M. 145.

Tenant cannot buy adverse title which existed when he received his lease and make it the basis of a suit in equity to quiet his title as against the landlord.—Ryerson v. Eldred, 18 M. 12. Tenant cannot buy tax title and set up against landlord's title.—Williams v. Towl, 65 M. 204. Life tenant cannot by neglecting to pay taxes and allowing lien to be foreclosed, cut off the title of the remainderman by purchasing at tax sale.—See Bowen v. Brogan, 119 M. 218.

When the owner of a distinct tract of land neglects to pay his taxes thereon and the same is sold jointly with the land of others for the non-payment and he becomes the purchaser of the whole, the sale is void, the purchaser being in default in not paying his own tax.—Cooley v. Waterman, 16 M. 366. When there is a bona fide controversy respecting a title and one of the claimants is in possession he owes no duty to the other to keep the taxes paid, and may therefore strengthen his claim by procuring tax titles. But if a claimant cannot rely upon a title purchased by himself, he cannot make use of one obtained by another.—Jeffery v. Hursh, 45 M. 59. A tenant-in-common who has entered upon a portion of the premises is not barred from buying the remainder of the title.—Chamberlain v. Ahrens, 55 M. 111. One who has purchased lands from a claimant under tax deeds cannot defend a suit to foreclose a purchase money mortgage given by him upon the ground that it was his duty as an administrator in possession to discharge the taxes for the non-payment of which the deeds were executed and that therefore he acquired no title and the mortgage could convey none.—Judson v. Miller, 106 M. 140.

Taxes due upon mortgaged lands are as much a lien upon the mortgaged interest as upon the equity of redemption; and where one having second mortgage allows the land to be sold for taxes and obtains a tax deed he cannot use such deed adversely to the first mortgage. It inures to the protection and not to the destruction of the regular title. Mortgagee cannot use tax title adversely to regular title.—Horton v. Ingersoll, 13 M. 409. Purchase of tax bids operates as a payment of the taxes so far as a mortgagee or his assigns are concerned.—Fell v. Barbour, 58 M. 49. Adverse tax title cannot be pleaded as a defense to a purchase money mortgage where no claim under it has been made against the mortgagor.—Smith v. Fitting, 37 M. 148. When a mortgagee instead of making payment of the taxes purchases the land at tax sale the mortgagor may treat the purchase as a payment and compel the cancellation of the certificate or deed on refunding the amount paid with interest; but this is the right of the mortgagor only. Neither party to a mortgage can be suffered to buy at a tax sale against the will of the other and thereby cut off the other's interest; but either may bid if the other makes no objection.—Maxfield v. Willey, 46 M. 252. A tax title being purchased by mortgagee to protect the mortgage, it is proper in decree of foreclosure to provide that upon payment of the cost and interest, the tax title be assigned to the mortgagor.—Baker v. Clark, 52 M. 22.

Mortgagee cannot suffer lands to be sold for taxes and get title under the sale.—Boardman v. Boozwinkle, 121 M. 320. Purchase of tax title by mortgagor held merely a payment of taxes he was in duty bound to pay.—McKisson v. Davenport, 83 M. 211. Where mortgagor conveys by voluntary conveyance a mortgage containing a covenant on the part of the mortgagor binding himself and his assigns to pay the taxes the grantee cannot after having asked and obtained an extension of a mortgage defeat such mortgage by the purchase of an outstanding tax title.—Brown v. Avery, 119 M. 384.

Vendee of land contract who has allowed the land to be sold for taxes which it was his duty to pay, cannot interpose such sales as defense against foreclosure.—Pringle v. Wagner, 110 M. 612. Where one enters under an arrangement with another who is in possession by virtue of a contract with the owner requiring him to pay all taxes, he can acquire no valid title to the premises as against such owner by virtue of any tax sales for taxes which under the contract it was the duty of his assignor to pay, but would hold any title thus acquired in trust for such owner.—Bertram v. Cook, 32 M. 518. The claimant of a pretended title which he had no right to retain or assert against another party is regarded in equity as holding in trust for the other party and as bound to release it to him on just terms.—Crooks v. Whitford, 40 M. 599.

An attorney of an insurance company who purchased a tax title after foreclosing a mortgage in company's name and quit-claims to company is recog-

nized as purchasing for himself; but his subsequent action was a recognition of his agency in making the purchase.—A tenant who has covenanted to pay the taxes cannot, having neglected to do so, acquire a tax title which shall shut off the title of his landlord. Neither shall the purchaser in possession under executory contract be allowed to cut off the rights of his vendor by like purchase, nor a mortgagor that of his mortgagee.—A second mortgagee is not bound to protect the first mortgage by payment of taxes or purchase at tax sale, but if he does so it is a protection *ipso facto*.—A mortgagee owes no duty to a subsequent mortgagee or to the owner to protect the party from tax liens; but all three owe a duty to the State to pay the taxes, and the State will sell the interest of all if none of them shall pay. As between themselves the primary duty is upon the mortgagor. But the purchase at tax sale in either case is only a payment of the tax.—Conn. Mutual Life Ins. Co. v. Bulte, 45 M. 113.

A tenant-in-common of lands can acquire no title to the interest of his co-tenant by bidding in the lands at a sale of the whole for delinquent taxes.—Page v. Webster, 8 M. 263; Butler v. Porter, 13 M. 292. If such co-tenant procure another person to bid in the property for him, and to take the deed, this will give him no greater right. It is the duty of the tenant-in-common in possession of and using the whole estate, to keep down the taxes on the whole during his occupancy, and he cannot take advantage of his own violation of this duty to acquire the interest of his co-tenants in the land by purchase at a tax sale. Where a tenant-in-common in possession of and using the whole estate fails to pay the taxes, and a stranger purchases the same at a tax sale, in such a manner as to be himself entitled to assert his tax title against all the owners, the purchase of such tax title by such tenant only corrects the wrong he had before committed and operates as a payment of the tax. He cannot set up such tax title against his cotenants. Whether a tenant-in-common not in possession, and hence not under obligation to pay the taxes of his co-tenant, can purchase of a stranger who without collusion with him has acquired it on his own account, a tax title based upon the default of his co-tenant, and set it up against such co-tenant—*quere*.—DuBois v. Campau, 24 M. 360. As to identification of the undivided interests purchased onus is on purchaser to show what it covers.—Butler v. Porter, 13 M. 292. A purchaser from one who holds only an undivided interest in patented lands, and who enters as a stranger to the rights of his co-tenants of the other undivided interests, is not estopped from setting up against them an adverse claim that originated before his purchase, such as a tax title that arose from his grantor's default. Estoppel from purchasing a tax title lies only against those who ought to have paid the tax or removed the burden.—Sands v. Davis, 40 M. 14.

Where a tract of land was bought in at a tax sale by a mortgagee, the title so acquired cannot be asserted as against the mortgagor, since such a purchase only amounted to a redemption from the sale, and cannot be considered as an independent title.—Porter et al. v. Corbin et al., 124 M. 201.

A widow who has conveyance from all but one of the heirs of her husband's estate and is in possession under such title and her statutory rights cannot acquire adverse title as to such heir by purchasing a tax title paid for by her husband's grantor, to protect his covenants of warranty pursuant to agreement made with the husband in his lifetime, nor can her grantee with knowledge of all the facts do so.—An heir cannot set up an adverse claim to land of which his father died seized, under a tax title purchased after his death and paid for by his grantor to protect the covenant of warranty pursuant to an agreement made with the father in his lifetime, such title belonging equitably to the estate.—Richards v. Richards, 75 M. 408. Second life-tenant cannot obtain a tax title during incumbency of first life-tenant which can be set up against remainder-man.—DeFreese v. Lake, 109 M. 415. Husband in joint tenancy with his wife cannot acquire a valid tax title against her.—Ward v. Nestell, 113 M. 185.

One holding contract cannot buy for title.—Curran v. Banks, 123 M. 594.

The purchase by mortgage amounts to a redemption.—Porter v. Corbin, 124 M. 261.

The grantee of a life estate cannot by the purchase of tax deeds acquire title adverse to the remainder-man.—Jeffers v. Sydnam, 129 M. 440.

A tenant in common did not acquire the title of his co-tenants by purchasing at a tax sale for village taxes, the purchase operating merely as a payment of taxes.—Sleight v. Roe, 125 M. 585.

Blackwood v. VanVleet, 20 M. 118, held that owner cannot acquire title; nor can one holding contract.—Curran v. Banks, 123 M. 594.

Where a man mortgaged two pieces of land, one of which he afterward deeded to his wife, and both pieces were sold for taxes levied subsequent to the mortgage, and bought by the mortgagor in the name of his wife, the wife would not be permitted to set up the tax title thus acquired to defeat the mortgage, since such purchase amounts merely to a payment of the tax.—Chamberlain v. Forbes, 126 M. 86.

One who entered into possession of land as purchaser under a land contract secures an equitable title to the lands, the vendor holding the legal title in trust coupled with an interest by way of securing, and such vendee cannot, as purchaser of a tax title, acquire an interest adverse to the vendor in the contract.—Simon v. Rood et al., 129 M. 345.

It is inequitable for a husband to acquire title to the wife's land by obtaining tax title upon it, and such title is void as against the wife, and under circumstances may be void against the grantees and mortgagees of the wife.—*Idem*.

The general rule that one tenant in common cannot acquire an outstanding title adverse to his co-tenant, and that the purchase of such title inures to the benefit of all the co-tenants upon equitable distribution being made, is subject to an exception where the co-tenants have acquired their respective titles by

different instruments and at different times and no relationship of trust or confidence exists between them, and where the outstanding title has not been created nor suffered to arise through the default of the purchasing co-tenants.—*Boynton v. Veldman*, 9 D. L. N. 447.

RESULTING TRUST: In *Linsley v. Sinclair*, 24 M. 330, party purchasing tax title for another repudiated agency, asserted title in himself and conveyed the land. The court found that he procured title for the fraudulent purpose of appropriating it to his own use and held that the statute (see 8835 e. s. '97), providing that no trust shall result in favor of party furnishing consideration for a purchase in the name of another, does not apply to a conveyance obtained by fraud.—See also *Russell v. Miller*, 26 M. 1. Implied or resulting trusts may be established by proving the transaction out of which they result or are implied, and such proof may be by parol testimony.—*Ripley v. Seligman*, 88 M. 177.

ATTORNNMENT: A tenant in possession under one title can make no valid attornment to one not in privity with that title.—*Fuller v. Sweet*, 30 M. 236. A tenant in fact cannot dispute the title under which he obtains possession.—*Nims v. Sherman*, 43 M. 45. A tenant is estopped from disputing his landlord's title during his occupancy under the lease and for any further time while he may hold over.—*Bertram v. Cook*, 44 M. 396. Attornment to third party in possession under writ of possession is not voluntary in such sense as to make it a wrong to original landlord.—*Foss v. Van Driele*, 47 M. 201. While tenant cannot during continuance of the tenancy dispute the title under which he obtained possession, he may show in summary proceedings to obtain possession of the leased premises that his landlord's title has been extinguished by a sale of the land for taxes and that he has attorned to the purchaser at such sale.—*Jenkinson v. Winans*, 109 M. 524. The fact that defendant in a bill to quiet title lost possession of the lands in suit through the action of complainant's agent in inducing defendant's tenant to surrender possession in order to enable complainant to maintain the bill under 448 C. L. '97, which authorizes such a suit "against any person not in possession" is no defense where defendant's title has been cut off by a valid tax deed to complainant, the defendant having the right under the circumstances to attorn.—*Lille v. Snow*, 118 M. 611. See Secs. 77, 100, 101, 140-2.

No annulment after five years, possession.

Purchaser may recover for improvements.

Refunding on canceled sales.

Void taxes charged back.

Resale for valid taxes.

SEC. 73. Am. Act 154 of 1895. (3896) Am. Act 262 of 1899.

No sale of any lands or deed made by the Auditor General under the provisions of this act shall be set aside or annulled by any court of this State after the purchaser, his heirs or assigns have been in actual and undisputed possession of such lands so sold or conveyed for a period of five years from the date of such purchase or deed. Whenever any sale made under this act is set aside by any court in less time than five years, the court shall determine and decree the value of improvements made by the purchaser, if he has been in possession, and give judgment therefor, and issue execution to collect the same of the claimant before putting him in possession. If a sale made under this act is set aside by any court or is canceled by the Auditor General as provided in this act, the Auditor General shall refund to the purchaser the amount paid at the time of the sale, with interest thereon at the rate of six per cent per annum from the time of the purchase to the time when said sale was set aside or canceled, out of the general fund of the State. In such case the Auditor General shall charge back to the county all taxes and the interest and charges thereon for all years for which it has been held that the taxes were invalid or the description erroneous, but for all years for which no invalidity has been found he shall proceed to enforce the collection of the taxes for all years refunded as herein provided, as in the case of taxes for which sale has not been made.

One who did not raise any objections when proceedings were taken to establish a drain is estopped, after it is nearly completed, from objecting to such proceedings in an action to sell their land to pay the special drain taxes.—*Auditor General v. Melze*, 124 M. 285.

Act 200 of the laws of 1891 made no provision for refunding when sales set aside. "In the absence of such provision for repayment the purchaser buys at his risk, and takes only such title as the State had.—*Crane v. Reeder*, 25 M.

20; Rice v. Auditor General, 30 M. 12."—Ball v. Auditor General, 10 D. L. N. 273.

Where relator filed a bill to annul a tax deed on various grounds which after final hearing was dismissed, he cannot thereafter maintain mandamus to compel the Auditor General to cancel the deed on the ground that the chancery court was not in session for five days subsequent to the day fixed for the hearing of the prior suit, and before the decree was rendered, since such objection might have been litigated in the chancery suit; and hence the decree dismissing the bill was res judicata against plaintiff's claim on such issue.—Sayers v. Auditor General, 124 M. 259.

Auditor General cannot refund a tax if land was subject to assessment and actually assessed whether legally or illegally, and no attempt has been made to say them.—Flint Land Co. v. Auditor General, 10 D. L. N. 276.

LIMITATIONS: Party who is to have the benefit of limitations must have entered into possession under his tax deed.—Gillman v. Riopelle, 18 M. 45; King v. Harrington, 18 M. 213. Possession must be continuous during full statutory period.—Yelverton v. Hilliard, 38 M. 355. Must appear that it was adverse to plaintiff.—Perkins v. Nugent, 45 M. 156. Statutes of limitations are statutes of repose and must not be defeated by undue strictness of construction.—Towle v. Wright, 37 M. 93. Action for possession of lands to which title is claimed under tax deed or entry thereupon limited to ten years after the right to make such entry or to bring such action shall have accrued.—9714 C. L. 97. See Perry v. Hepburne, 4 M. 165; Chamberlain v. Ahrens, 55 M. 111; Harrison v. Spencer, 110 M. 215; Whittaker v. Shooting Club, 102 M. 454. Statute protects parties entering under tax titles whether good or bad after ten years of occupancy.—Reilly v. Blaser, 61 M. 399. See also Hardy v. Powell, 40 M. 413; Whitford v. Crooks, 54 M. 261. Proof that a deceased person occupied lands several years and died in possession is presumptive evidence of seizure in favor of his heirs or of purchasers from his estate.—Hall v. Kellogg, 16 M. 135. After the holder of a tax title has recorded it and held possession for many years, the holder of the original title cannot question the tax title in collateral proceedings, as in an action of ejectment.—Blanchard v. Powers, 42 M. 610. As to recovery for improvements see notes to Sec. 104.

The court holds section 73 is in effect a statute of limitation, and after the running of that statute, a possession under a sale upon a void decree protects the occupant.—Spaulding v. O'Connor, 110 M. 45.

A possession of real estate for the period of limitations is a sufficient title to authorize the possessor to maintain an action of trespass thereon against an adverse claimant.—Hart v. Doyle, 128 M. 257.

St. Mary's Power Co. v. Chandler, 10 D. L. N. 260 reaffirms Spaulding v. O'Connor (119 M. 45), that this is a statute of limitation.

ACTION TO SET ASIDE: Trial of one's rights must precede dispossession.—McCombs v. Merryhew, 40 M. 721. As to laches and unreasonable delay to apply for relief by setting aside sale in chancery, see Goodwin v. Burns, 21 M. 211; Haff v. Jenny, 54 M. 511. In a contest between one who is seeking to make a gain and one who is struggling to avoid a loss equity will favor the latter.—Miller v. Aldrich, 31 M. 408. An order settling aside a foreclosure sale and opening the case cannot be made without bringing in such third persons as have acquired rights under the sale.—Jewett v. Morris, 41 M. 689. Decree setting aside sale for jurisdictional defects should require petitioner to refund to the purchaser the amount paid by him with interest.—Jenkinson v. Auditor General, 104 M. 34. Where valid legislative act has determined the conditions on which rights shall vest or be forfeited and there has been no fraud in conducting the legal measures, no court can interpose conditions or qualifications in violation of the statute.—Cameron v. Adams, 31 M. 4426.

Where in action to set aside on ground that tax was erroneously assessed as a part instead of the whole of a parcel of land, the collector's return introduced showed tax against a part of the land only, but it was consistent with the returns that the land might have been correctly assessed as a whole and a part cleared by payment before the return, the court in support of the deed would presume such payment.—Wright v. Dunham, 13 M. 414. Tax deed based upon assessment containing a fatally defective description of the property conveyed no title and owner was not estopped from denying the validity of the deed by having allowed sale to be made, and purchaser to make improvements without objection.—Pett v. F. & P. M. Ry. Co., 114 M. 362.

An imperfect title can be disputed by those only who have a better one.—Covert v. Morrison, 49 M. 133. One who attacks a judicial sale as invalid after strangers have acquired rights under it must do so by some original proceeding in which an issue can be framed and tried in the ordinary way, and the persons concerned brought in as parties.—Cook v. Hall, 123 M. 378. Objections raised by petitioners in a proceeding to set aside a tax sale relative to the assessment and return of the taxes held to be foreclosed by the decree of sale and the provisions of Sec. 70.—Nester v. Church, 121 M. 81.

Tax sale held void on ground of fraud and conspiracy where county treasurer (who was the mortgagor) falsely represented to the mortgagee that taxes were paid and connived at sale of lands to third party for delinquent taxes.—Christian v. Soderberg, 118 M. 47.

While the holder of the tax title may rest upon his deed until the opposite party may introduce such evidence as in the absence of all counter-testimony will afford reasonable ground for presuming the proceeding anterior to the deed to be irregular, yet when this is shown the burden of proof is thrown upon the holder of the tax title. To overcome the presumption of regularity of the Auditor's deed plaintiff must show some substantial error affecting injuriously the former owner of the land.—Case v. Dean, 16 M. 12.

In O'Connor v. Circuit Judge, Mich. Mandamus Cases, 423, order to show

cause why mandamus should not issue to vacate an order granting leave to file a bill of review in 1897, in matter of the petition for the sale of 1894 denied.

When tax deeds are introduced the presumption is that the proceedings prior to issuing the tax deeds are regular, and the burden is on the plaintiff to show a fatal irregularity if any existed.—*Anderson v. Besser*, 9 D. L. N. 412.

An order of the circuit court denying a writ of assistance and holding a tax sale void in a proceeding in which the Auditor General was not a party, may be reviewed on a petition for mandamus to compel the Auditor General to refund the taxes held void under the decree.—*Newton v. Powers*, 9 D. L. N. 445.

A tax sale, though invalid, suspends the lien of the State, which only revives when the sale is set aside.—*O'Connor v. Auditor General*, 127 M. 553.

ADVERSE POSSESSION: If the tax purchaser obtains possession and holds it until protected by a limitation law, he then becomes safe, not because his tax title is any more regular, but because the holder of the better title has become incapable of asserting it. As an illegal tax title is a nullity it cannot of itself divest or affect the true title in any way and the true owner cannot be lawfully compelled to incur expense or take active measures to get rid of it unless he sees fit; but if he becomes ousted, whether by a pretended tax title holder or by any adverse claimant, he can only secure the enjoyment of his rights by active measures, and the party in possession may then rely on such possession until it is lawfully assailed by suit or otherwise within the period of limitation.—*Groesbeck v. Seeley*, 13 M. 329.

Adverse possession under the statute must be open, notorious, continuous, exclusive, visible and distinct, as well as adverse. There must be an actual occupancy, as distinguished from constructive possession, of a portion or all of the premises claimed; not necessarily living thereon, for, if the premises are enclosed, and cultivated, this would be a sufficient actual occupancy; and if crops were continually grown thereon, this would be a visible occupancy; and though in the interim between harvesting and recropping no person was actually on the land, and nothing done thereon, yet, if such cropping continued from year to year this would be a continuous and notorious occupancy within the definition above given.—*Cook v. Clinton*, 64 M. 309; *Yelverton v. Steele*, 40 M. 538; *Paldi v. Paldi*, 95 M. 410. When one enters upon land under color of title and with claim of ownership, any acts of user which are continuous, and indicate unequivocally to the neighborhood in which the land is situated that it is appropriated exclusively to his individual use and ownership, are sufficient to render the possession adverse. It is not necessary that the occupation of land should be such that a mere stranger passing by the land would know that some one was asserting title to, and dominion over it, nor that the land be cleared or fence or any building be placed thereon, to render such occupation adverse.—*Murray v. Hudson*, 65 M. 670.

Payment of taxes is not necessarily such an assertion of ownership as to affect the adverse possession of another.—*Cook v. Rounds*, 60 M. 310. Payment of the taxes is not sufficient to establish title by adverse possession but is competent evidence to be considered in determining the question.—*Whittaker v. Shooting Club*, 102 M. 454. A tax deed which is insufficient in itself to pass title and assessment roll showing assessment to grantee are admissible to characterize the acts of possession on the part of the grantee and his successors.—*Chabert v. Russell*, 109 M. 571. As to adverse possession by grantee under a deed from the holder of void tax titles, see *Judson v. Duffy*, 98 M. 255.

A widow who was life tenant refused to pay taxes and her son bought the property at a tax sale. The widow went to live with the son who moved on the premises, the widow going with him. *Held*, that the son had no right of entry until the death of the widow and consequently on ejectment against him he could not claim title by adverse possession.—*Sleight v. Roe*, 125 M. 585.

Under 3 C. L. 1897, Sec. 10995, permitting a defendant ousted in ejectment to recover for improvements provided he shall have been in actual occupancy for six years before the commencement of the action, the occupancy contemplated is such as would give title by adverse possession; hence, where a part of the period of defendant's occupancy was during the life of the life tenant he was not entitled to recover for improvements against other remainder-men who were defendant co-tenants.—*Sleight v. Roe*, 125 M. 585.

Even though certificate of error has been issued by the Auditor General, "Defendant claims that a title thus acquired" (by adverse possession for more than five years) "by adverse possession cannot be cut off by the cancellation of the tax deed. There is much force in this contention." The facts, however, did not show this to be the case.—*Nowlen v. Hall*, 128 M. 274.

There can be no adverse possession against a remainder-man by the grantee of a life tenant during the lifetime of the tenant.—*Jeffers v. Sydnam*, 129 M. 440.

In an action of trespass quare clausum, the record shows that the question of plaintiff's actual possession was a disputed question of fact and was properly submitted to the jury.—*Vetterly v. McNeal*, 129 M. 507.

Secs. 115 and 116, tax law of 1885, fix the period at the expiration of which title vests by adverse possession, and is a statute of limitation not repealed by the tax law of 1889, and later tax laws.—*St. Mary's Power Co. v. Chandler-Dunbar Water Power Co.*, 10 D. L. N. 260.

A finding that plaintiff claimed land under a certain conveyance and exercised acts of ownership and possession by herself, her husband, and son over fifteen years, is a sufficient finding that plaintiff acquired title by adverse possession.—*Hart v. Doyle*, 128 M. 257.

REFUNDING: Auditor General cannot refund any money upon the failure of tax titles except as some statute requires it. Act providing for refunding does not authorize such repayment in a case where the tax title has merely been introduced in evidence in an ejectment suit and held defective; but the judgment must be one acting directly upon the title.—*Rice v. Auditor General*,

30 M. 12. Further as to refunding see notes to sections relative to payment; also index of subjects in notes.

When sale is set aside it is the duty of the Auditor General to refund all money paid on the sale and to charge back the taxes set aside and include all other taxes in subsequent petition for decree. The lien of the State is not extinguished by payment as a condition of purchase in such case, but is only suspended.—Auditor General v. Patterson, 122 M. 39.

Act No. 200 of 1891 contains no provision for repayment to the tax purchaser at an annual tax sale where the tax deed has been held void, and the Auditor General has no power to make such repayment. In the absence of a provision for repayment the purchaser buys at his risk and takes only such title as the State has.—Ball v. Auditor General, 10 D. L. N. 273.

A decree setting aside a sale for delinquent taxes shall require the petitioner to refund to the purchaser the amount paid by him to the State for the lands.—Astec Copper Co. v. Auditor General, 128 M. 615.

One entering into possession without giving notice under section 142 cannot recover in a proceeding to vacate the decree under which he purchased, either for improvements or purchase money.—Corrigan v. Davis, 125 M. 125.

See Secs. 75, 86, 104, 144.

OF REDEMPTION AND ANNULMENT.

SEC. 74. Am. Act 154 of 1895, and Act 225 of 1897. (3897) Period of redemption.
 Am. Act 262 of 1899. Any person owning any of the lands sold as aforesaid, or any interest therein, may, at any time before the first Tuesday in May in the year following such sale, redeem any parcel of such lands, or any part or interest in such lands, by showing to the satisfaction of the county treasurer or Auditor General that he owns only that part or interest in the same which he proposes to redeem, by paying to the county treasurer or Auditor General the amount of the sale of the parcel of land, or the portion thereof wished to be redeemed, and interest thereon from the date of such sale. Upon the payment of the redemption money and interest thereon at one per cent per month or fraction thereof to the county treasurer as aforesaid, he shall issue a redemption certificate in duplicate in such form as may be prescribed by the Auditor General, both of which certificates shall be countersigned by the county clerk, who shall make an entry of the number of such certificate, the amount for which it was given and the name and address of the person paying the same, one of which certificates shall be delivered to person making such redemption payment, and the other shall be immediately transmitted to the Auditor General. The county treasurer shall also make a minute of such redemption certificate in the tax record book kept in his office, with the name of the payee, the date and the amount paid. Such certificate or the duplicate, and the entry thereof by the clerk or the county treasurer, shall be evidence of such redemption payment in the courts of this State. In case any such lands are redeemed at the office of the Auditor General, a notice containing all the above facts shall be sent to the county treasurer of the proper county, who shall cause the proper entries to be made on the Tax Record of his county and in the office of the county clerk. Redemption certificates.
Notice of redemption.
Record.
Evidence of redemption. □
Notice and record of redemption at Auditor General's office.

County treasurers are provided by the Auditor General with blank applications which all applying to them to redeem should be required to fill and sign. The form includes the statutory showing of interest. The same blank is furnished by the Auditor General to all who make application to redeem at his department.

It does not appear to be incumbent upon the officer to whom a tender for redemption is made to determine the title or interest of the party who seeks to redeem (legal titles are to be tried by law.—Hoffman v. Beard, 22 M. 59); but presumably when showing of interest is made in proper form such showing

will be accepted as satisfactory unless the officer has proof that the applicant has not such interest as he claims he has.

Right of redemption exists only when permitted by statute. Courts cannot read into the law extensions of time, exceptions, etc.—*Dumphy v. Hilton*, 121 M. 315.

One having no legal or equitable interest in the premises cannot redeem.—*Harwood v. Underwood*, 28 M. 427. A volunteer cannot redeem.—*Smith v. Austin*, 9 M. 465, 11 M. 34. Sale of standing timber is sale of an interest in the land.—*Johnson v. Moore*, 28 M. 3; *Russell v. Myers*, 32 M. 522; *Wetmore v. Neuberger*, 44 M. 362; *Walt v. Baldwin*, 60 M. 622; *Williams v. Hyde*, 98 M. 152; but a parcel license to cut timber is not.—*Greeley v. Stillson*, 27 M. 152. Equity of redemption is an interest in land.—*Rawdon v. Dodge*, 40 M. 697. A right of way is an interest.—*D. H. & I. R. R. Co. v. Forbes*, 30 M. 175. So is an easement.—*Millard v. Reeves*, 1 M. 110. See also *Fletcher v. Township of Alcona*, 72 M. 18. Owner of undivided interest may redeem.—*People v. Treasurer of Detroit*, 8 M. 14. Further as to who may redeem see *Cooley on Taxation* 538-9, and cases cited at Sec. 8507 H. S. Redemption gives no new title. It simply relieves the land from the sale.—*Cooley on Taxation* 543. In *Johnston v. Knapp*, 35 M. 307, it was suggested that a redemption when made is sufficient in all cases and by whomsoever made to save the title to the real owner whoever he may be. As to right of redemption see also *Cargill v. Power*, 1 M. 369.

Interest on redemption is rather a penalty or an exaction for the privilege of redeeming.—*F. & P. M. R. R. Co. v. County Treasurer of Saginaw*, 32 M. 280. Right to redeem strictly limited to the statutory period. *Gantz v. Toles*, 40 M. 725. Courts of equity cannot extend or enlarge time for redemption.—*Cameron v. Adams*, 31 M. 426. Statutory time for redemption is not affected by the mistaken date of expiry in certificate of sale.—*Muirhead v. Sands*, 111 M. 487.

A party who through negligence or gross ignorance of the law fails to redeem within the time limited by statute has no claim to relief in equity.—*Campau v. Godfrey*, 18 M. 27. Owner and purchaser agreed upon amount for assignment of certificate, and former relying thereon, permitted time for redemption to expire, after which purchaser obtained deed and refused thereafter to accept tender of agreed amount; Held, to be fraud upon the owner and that he was entitled to decree against purchaser for conveyance.—*Laing v. McKee*, 13 M. 124.

In *Fitzgerald v. Auditor General*, Mich. Mandamus Cases 1034, mandamus to compel respondent to execute to relator deed of lands sold at tax sale, respondent having previously issued certificate of redemption, was denied. In *Detroit F. & M. Ins. Co. v. Wood*, 118 M. 31, owner remitted to county treasurer to redeem from sale for taxes of 1891 and 1892 and county treasurer issued certificates of redemption for both years, time for redemption from sale for tax of 1891 having expired. Auditor General accepted the duplicate for 1892 and declined to accept that for 1891. Held when owner remits sum to be devoted to discharge of specified taxes it should all be applied as intended or no part of it accepted.

Money paid by the holder of a mortgage to redeem from tax sale does not constitute a lien apart from the mortgage but is discharge when the mortgage is satisfied.—*Vincent v. Moore*, 51 M. 618.

In case of incompetent person, cannot redeem after period of redemption expires. The right of redemption from tax sales does not exist except as provided by statute.—*Dumphy v. Hilton* 121 M. 315.

Deposit of money in postoffice not sufficient. "The person having the right to redeem must avail himself of that right during the time fixed by statute."—*Palne v. Boynton*, 124 M. 194. See also, *Palne v. Land Comr.*, 66 M. 245.

Section 74 is not repealed by the provisions of sections 140 and 141, although the latter sections make section 74 inapplicable where the tax for which the land was sold has been paid by a purchaser of the title of the State.—*Cheever v. Flint Land Co. Ltd.*, 10 D. L. N. 584.

Copy of decree of annulment.

Subject to record.

Notice of Auditor General.

SEC. 75. (3898) Whenever any court of competent jurisdiction shall by decree annul any certificate executed by the county treasurer aforesaid or any deed issued by the Auditor General, the clerk of such court shall, on the payment, by any party interested, of fifty cents, deliver to such person a certified copy of such judgment, decree, or order, which certified copy or such judgment decree or order shall be a proper subject of record in the office of the register of deeds of the county in which the land is situated, and on recording the same, the register shall enter in the margin of the record of the tax deed affected by such decree or record, a brief statement of such judgment, decree or order, and shall also send notice of such decree or order to the office of the Auditor General.

SEC. 76. (3899) In any suit or proceeding to enforce or set aside any tax, such tax shall be held illegal only for one of the following reasons:

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|---|------------------------------------|
| <i>First,</i> That no law authorizes such tax; | Tax held illegal, when. |
| <i>Second,</i> That the person or persons appointed to decide whether a tax shall be raised under a given law, have acted without jurisdiction, or have not imposed the tax in question; | Unauthorized tax. No jurisdiction. |
| <i>Third,</i> That the person or property assessed was exempt from the taxation in question or was not legally assessed; | Exempt, etc. |
| <i>Fourth,</i> That the tax has been paid; | Tax paid. |
| <i>Fifth,</i> That the supervisor or board of review in assessing a person or property for taxation, or in the apportionment of the tax to the person or property in question acted fraudulently. | Fraudulent assessment. |
- If any such illegality, omission or fraud affects the amount of one tax only, the tax shall be sustained so far as the same is legal and just.

As to period within which a sale under a decree in chancery will be set aside.—*Leonard v. Taylor*, 12 M. 308.

Where objections to the sufficiency of proceedings in tax cases are not made in trial court, such objections will not be reviewed on appeal.—*Auditor General v. Chase*, 10 D. L. N. 34.

SUB. 3. The court has power to review a tax where it is charged that property not assessable was in fact assessed.—*City of Detroit v. Donovan*, 127 M. 604.

SUB. 4. A sale made after the tax has been paid is unauthorized and the deed on such sale conveys no estate or title whatever. One claiming to have paid the tax before sale is not precluded by the deed but may go behind it and show that fact.—*Rowland v. Doty*, *Harrington's Chancery Reports* 3.

SUB. 5. To justify court in setting aside assessment on ground of fraud and conspiracy the evidence must clearly establish the charge.—*Pioneer Iron Co. v. Negaunce*, 116 M. 430.

That valuation by assessing officers was too low or that property subject to assessment was not assessed is not of itself sufficient to allow taxpayer to escape taxation. It must appear that because of these things he is made to pay more than his portion of the taxes.—A court would not be warranted in holding an assessment invalid because the assessor or board of review had acted fraudulently, unless that fact was clearly established by the evidence.—*Muskegon v. Boyce*, 123 M. 535.

Where a fraud in tax roll was proven, it was not incumbent on the taxpayers resisting the sale of their lands for taxes levied under such assessment to furnish the court with data on which to estimate what would be a proper tax on their land, since that would require them to make a new tax roll, which they had no power to do.—*Auditor General v. Pendill*, 123 M. 521.

Where the trial court charged the jury in detail that fraud would vitiate the tax roll, and the jury found against the defendant on that issue, the assessment cannot be held invalid on appeal on that ground.—*City of Muskegon v. Boyce*, 123 M. 535.

After an assessment roll had been made, reviewed and completed, the supervisor fraudulently altered the valuation of certain lands by reducing the valuation fixed by the board of review. Held that the entire tax was vitiated by the fraud and the fraudulent tax roll was absolutely void.—*Auditor General v. Hughitt*, 9 D. L. N. 614.

See Sec. 144.

SEC. 77. (3900) In the prosecution or defense of any action or proceeding by any person holding or claiming land under any deed or deeds of lands purchased for delinquent taxes, the party so claiming, under and by virtue of such purchase, may show his title to such land and premises, whether the same was derived under one or more purchases, and may give in evidence any and all deeds of conveyance or other evidence of such purchases as aforesaid, which he may at any time have received, and may claim title under any or all of them.

Where title rests upon the validity of tax deeds covering taxes for several years briefs should be comprehensive, covering statutes, decisions, etc., applicable to each point raised.—*Hoffman v. Pack-Woods Co.*, 114 M. 1.

It would involve an absurdity to say that a subsequent title acquired at

a tax sale and which breaks up and destroys all prior titles operates at the same time to strengthen such prior titles.—*Lacey v. Davis*, 4 M. 153. But purchaser may bid upon the same lands at a tax sale before the time of redemption under his former purchase has expired and have the benefit of such bid.—*Tweed v. Metcalf*, 4 M. 579.

A claim of title under a tax deed is of necessity hostile to the title of the claimant under the original title.—*Sparrow v. Hovey*, 44 M. 63.

A bill to remove a cloud from the title to lands where complainant's title is through a judicial sale cannot be sustained where the proceedings which were the basis of such sale and upon which the validity of complainant's title depends are shown to be void for jurisdictional defects.—*Griswold v. Fuller*, 33 M. 268. Purchase at a void tax sale can in no way effect the deed made pursuant to a sale previously made.—*Jenison v. Conklin*, 114 M. 9.

In an action of trespass for entering land, etc., tax deeds which the evidence shows are void may be treated as color of title; and if the defendant took possession under them they are admissible in evidence as tending to show what and how much lands he claims.—*Hoffman v. Harrington*, 28 M. 90. As to good faith of acts done under title based upon tax deeds, see *Grant v. Smith*, 26 M. 201; *Winchester v. Craig*, 33 M. 222.

OF TAX LANDS HELD BY THE STATE.

Sale of state
tax lands,

SEC. 78. Am. Act 225 of 1897. (3901) Am. Act 262 of 1899. All lands heretofore or that may be hereafter bid off to the State for taxes, which have not been redeemed or otherwise disposed of, shall be offered for sale by the county treasurer at the regular annual tax sale provided to be held under the provisions of this act. The Auditor General shall furnish to each county treasurer in the month of April prior to the month of May in the year in which such tax sales are held, as provided in this act, a statement of all lands in his county that may have been bid in for the State, then remaining unredeemed or not otherwise discharged. Such statement shall exhibit the aggregate amount of all sums due on each description of land, including interest thereon at the rate of twelve per cent per annum from the first day of the month in which the land was bid in to the State until the first day of the month in which said annual tax sale is to be held, as heretofore provided for by this act.

Auditor Gen-
eral to make
statement.

State tax land books are public records and subject to inspection by any citizen.—*Althegon v. Huebner*, 90 M. 643. Time to furnish lists is directory.—*Garner v. Wallace*, 118 M. 387.

Purchaser of State tax lands at annual tax sale is not required to pay all taxes then a lien as provided in Section 84 in order to entitle him to deed.—*Berkey v. Burchard*, 119 M. 105.

This statute was not enacted for the benefit of original owners.—*Youngs v. Povey*, 127 M. 297.

Purchase at county treasurer's sale from list and tax record not void if sale from record held invalid. The purchase stands good as to year or years sold from list.—*Burns v. Ford*, 124 M. 274.

Notice of
sale.

SEC. 79. Am. Act 225 of 1897. (3902) The Auditor General shall cause to be published for four weeks successively, which shall be construed to mean four publications once a week, next previous to the first Tuesday in May in the years provided in this act, a notice that the lands described in such statement will be offered for sale at public auction at the time and place designated for the regular tax sales. At the time and place designated in the notice, the county treasurer shall proceed to sell said lands last mentioned and continue the same from day to day, except Sundays, until the whole have been offered, and any person bidding on any of said lands shall be subject to the requirements, provisions and penalties of section seventy of this act.

Requirements
same as in
sale from tax
record.

Publication of list of descriptions of State tax lands is not required.—Garner v. Wallace, 118 M. 387. Auction sale implies sale to the highest bidder and where notice was given of sale by auction it will be presumed that it was so made.—McCammon v. Railroad Co., 108 M. 104.

A publication once a week, occurring four times next previous to the first Tuesday, is valid, though less than a week transpired between the last publication and the day of sale, and less than four weeks between the first publication and the day of sale.—Monroe v. Winegar, 128 M. 309.

SEC. 80. (3903) In all cases where a description of land is offered as State or county tax land, and the same description or any part thereof shall be offered in the list of lands delinquent for taxes, as provided in this act, the county treasurer shall inform the person bidding for the same of that fact, and such person shall be required to purchase said description at the same time, and if he refuses so to do, the treasurer shall refuse his bid, and shall again offer it as if no bid had been made thereon.

Purchaser must take entire state lien.

For rules governing sale, see Sec. 70. See also Sec. 72.

SEC. 81. (3904) The county treasurer shall, on payment of the purchase money of such sale, issue a certificate of sale to the purchaser, in such form as is prescribed by section seventy-one of this act, so far as the same may be applicable, number the same, and shall enter the name of the person to whom the same was issued, with the number, date and amount thereof, in a book kept in his office for that purpose.

Certificate of sale.

Record thereof.

Purchaser has no right of entry on certificate before deed.—Busch v. Nester, 62 M. 381. But purchaser of unoccupied land is constructively in possession and may maintain trespass against one who without his authority having no color of title to the lands enters upon them, cuts and carries away standing timber.—Safford v. Bastow, 4 M. 406.

Certificates of sale must bear same number as that on State tax land list opposite the description.

See Sec. 115.

SEC. 82. (3905) After the period of redemption provided for in this act shall have expired, the Auditor General, on presentation and surrender of such certificate, shall issue to the purchaser, his heirs or assigns, a deed of conveyance, except when the same has been redeemed or has been bid off to the State for another tax, and in case of redemption the amount of the redemption shall be paid to such person: *Provided*, That such deed shall have the same force and effect as is given by section seventy-two of this act.

Auditor General to issue deeds.

Proviso.

Sufficient that it be shown that deed was made in pursuance of law.—Garner v. Wallace, 118 M. 387.

A vendor acting in good faith is not responsible for the goodness of his title beyond the extent of his covenants.—Thorkildsen v. Carpenter, 120 M. 419.

See Secs. 73, 140-2.

SEC. 83. (3906) In case of the loss of such certificate of sale, the purchaser, or his legal representative or assigns, may file his affidavit, duly verified, of such loss and that he was, at the time of such loss, the *bona fide* and legal holder and owner thereof. The Auditor General shall thereupon execute, as aforesaid, a deed for the land described in said certificate, if the same shall not have been redeemed, in the same manner as

Affidavit of loss of certificate.

Deed on affidavit of loss.

Second deed to replace lost deed.

though it had been presented and surrendered. The Auditor General shall execute a second deed of lands conveyed as herein provided, in all cases in which he shall be satisfied, by sufficient proof, that the original deed and record thereof has been lost or destroyed, which said deed shall declare upon its face that it is a second deed, and shall recite the loss or destruction of the former deed and its date, if possible. Such deed shall inure to the benefit of the grantee in the first deed, his heirs or assigns, as the case may be, and shall have the same force and effect as said first deed. Before the execution of such deed, the party applying therefor shall pay to the Auditor General the sum of one dollar, which shall belong to the general fund of the State.

Fees.

When court may order new deed.—9032 C. L. '97. Second deed which does not recite upon its face the loss or destruction of former deed and its date, if possible, is no evidence of title.—*Burroughs v. Goff*, 64 M. 464. Applicant for second deed must make affidavit of loss of first deed and also furnish certificate of register of deeds that the deed has not been recorded.

Purchase of state tax land or state bids of Auditor General.

SEC. 84. Am. Act 154 of 1895. (3907) Am. Act 262 of 1899. Any person may purchase any State tax lands or any State bids, at any time except during the annual tax sale at the county treasurer's office, by paying therefor to the Auditor General the amount for which the same was bid off to the State, with interest on the same at the rate of one per cent per month or fraction thereof from the first day of the month in which such lands were bid off to the State, together with the other taxes which have been returned to the Auditor General and remain a lien on such lands at the time of the purchase so made, with the interest thereon at the rate provided in this act: *Provided*, That purchase may be made of any State bid within the period for redemption without payment of the taxes of subsequent years as a condition of purchase, in case the land is not held by the State as State tax land; but for all taxes remaining unpaid the land shall be liable to sale as provided by section eighty-five of this act. Upon making payment as above such purchaser shall be entitled to and receive a certificate, and a deed conveying all the right, title and interest of the State to such tax lands acquired or accrued by virtue of the original sale or sales to the State. All the provisions of law relative to deeds executed by the Auditor General on the surrender of certificates of sale made by the several county treasurers shall be applicable in making deeds for such purchases.

Conditions.

Proviso.

Certificate and deed.

Purchase under this section can be made of no officer other than the Auditor General, and if moneys are paid to the county treasurer that officer is for the purpose thus made the agent of the intended purchaser.—In *Neeley v. Rood*, 54 M. 134, it was held that moneys paid to county treasurer to be forwarded to the Auditor General were not received by the county treasurer in his official capacity, and that it is no part of his official duty to receive money to be paid to the Auditor General.

Purchase is complete when application is made to Auditor General and sufficient money paid. Issue of deed is a ministerial act, necessary to evidence the title which was in purchaser as soon as the statutory requirement as to application and payment were complied with.—*Eldridge v. Richmond*, 120 M. 586; *Youngs v. Povey*, 127 M. 297. It will be presumed, in the absence of evidence to the contrary, that payment was made at the date the application was received and not on the date the deed was issued.—*Wilkin v. Keith*, 121 M. 66. This section requires one purchasing the title of the State to pay all claims which the State holds against the lands for nonpayment of taxes, including taxes re-

turned as unpaid on which the time of redemption has not expired at the time the title is purchased.—*Cheever v. Flint Land Co. Ltd.*, 10 D. L. N. 584.

Where applicant has not paid with his application all the statute requires and owner causes the current taxes to be paid and tender to the Auditor General made to pay the State bids before the purchaser makes a new and perfect application, the owner is entitled to the deed.—*Wilkin v. Kelth*, 121 M. 66. Where application was made with insufficient remittance and balance was not received until another tax (not included in the remittance) was payable as a condition of the purchase, deed issued was held void.—Purchaser not entitled to deeds to the amount of his remittance with an insufficient payment for all descriptions in his application in the order in which they appear.—*Hubbard v. Auditor General*, 120 M. 505. Grantee in tax deed which is void by reason of failure to pay all the statute requires may have refunding and on proper application may repurchase if no intervening rights have accrued.—*Cockburn v. Auditor General*, 120 M. 643; see also, *Conley v. Auditor General*, 123 M. 183.

It is the duty of the purchaser to ascertain the amount of all unpaid taxes (subject to payment as a condition of purchase) at the time of his application, and it is not sufficient compliance for him to forward to Auditor General with his application a gross amount sufficient to cover taxes that may be unpaid and leave it to that official to determine that all taxes due as a condition of purchase are included.—*Hall v. Mann*, 122 M. 13. In this case the purchaser claimed that his deed should be held valid on payment of a tax which was omitted, payment for which was not retained by the Auditor General, but which his remittance was sufficient in amount to cover.

Mandamus will not lie to compel the Auditor General to cancel a sale for unpaid taxes unless the assessment is void or the sale unauthorized.—*Kennedy v. Auditor General*, 10 D. L. N. 583.

A sale under a regular decree cannot be vitiated because the purchaser is also required to pay the taxes apparently due the State under previous sale.—*Monroe v. Winegar et al.*, 128 M. 309.

A sale of land by the State being valid as between the parties thereto, its regularity cannot be questioned by a trespasser. *Allen v. Cowley*, 128 M. 530.

One who entered into possession of land as purchaser under a land contract, secures an equitable title to the lands, the vendor holding the legal title in trust coupled with an interest by way of security, and such vendee cannot, as purchaser of a tax title, acquire an interest adverse to the vendor in the contract.—*Simon v. Rood et al.*, 129 M. 345.

It is inequitable for a husband to acquire title to the wife's land by obtaining tax title upon it, and such title is void as against the wife, and under circumstances may be void against the grantees and mortgagees of the wife.—*Simon v. Rood et al.*, 129 M. 345.

Application made through a clerk in Auditor General's Department not in conflict with Section 1321 C. L., making it unlawful for a clerk to purchase directly or indirectly.—*Youngs v. Povey*, 127 M. 207.

Whenever any person owning one or more government subdivisions of lands included in the assessment with other government subdivisions shall make or cause to be made affidavit setting forth that said person owns said subdivision, etc., and that affiant is desirous of paying all the taxes assessed against said land, upon tender by such person to the Auditor General of the proportionate amount of the taxes, interest and charges against said description, it shall be the duty of the Auditor General to issue to such person a deed of the description described in such affidavit.—3084 C. L. '97. All purchases under the foregoing provision must be made upon application to the Auditor General.

When lands subject to sale are applied for and payment tendered, Auditor General has no discretionary power to retain them from market for the accommodation of parties who had made application previously but were not ready to pay the money.—See *People v. Pritchard*, 17 M. 338, 341. Person applying to purchase and paying insufficient amount has no right to rely upon the verbal assurance of a clerk with whom he transacted the business that his payment would secure him the lands if on notice he should pay the balance.

When two persons are contending for priority as applicants for the purchase of public lands, one has no right to object that the payment made by the other was in a draft, it having been received as money and it not appearing that it was of less value than currency.—See *People v. Com. State Land Office*, 10 M. 470. Where purchaser has accepted tender of purchase money and afterwards reoffers it, mandamus will not lie to compel the issuance of tax deeds if in the interim the land has been conveyed to other parties.—*Altcheson v. Huebner*, 90 M. 634.

Failure of the Auditor General to figure interest properly held not to invalidate a tax sale to the owner of the original title.—*Clippinger v. Auditor General*, 10 D. L. N. 664.

Court may at any time before enrollment of decree by default entertain the petition of owner of any land in Auditor General's petition to alter or vacate said decree, notwithstanding the purchase from the State by third party.—*Benedict v. Auditor General*, 104 M. 269. A party attacking a judicial sale as invalid after the rights of a third party have accrued, must do so by some original proceeding in which an issue can be formed and tried in a general way.—*Crawford v. Tuller*, 35 M. 57. Period of limitation against an action depends upon the act in force at the time cause of action accrued.—*McKenzie v. A. P. Cook Co.*, 113 M. 453.

An assignee in bankruptcy who claims as a part of the bankrupt estate lands conveyed by the bankrupt prior to the commencement of the bankruptcy proceeding does not occupy a fiduciary relation to such grantee which makes it inequitable for him to claim the land as belonging to the estate or to purchase tax titles thereon granted on sales for delinquent taxes assessed after such assignment, such claims not relieving the grantee from the duty of paying

said taxes.—*Newaygo Mfg. Co. v. Stevens*, 79 M. 398. A tax deed based upon distinct taxes of different years is valid if any one of the sales was valid whether the others were or not.—*Hunt v. Chapin*, 42 M. 24. See also, *Peninsula Sav. Bank v. Ward*, 118 M. 93.

In *Smith v. Auditor General*, Mich. Mandamus Cases 1030, relator had applied to purchase by mail, enclosing an insufficient amount. Being advised of the shortage, he remitted the balance, but in the meantime another applicant had paid the full amount and received deed. Relator petitioned for mandamus to compel respondent to issue deed to him. Order to show cause denied. In *Widner v. Rayburn, Co. Treasurer*, Mich. Mandamus Cases 1626, the facts were similar to the foregoing except that relator had made no tender nor payment before other parties had tendered payment. Order to show cause was issued but petition was withdrawn at the hearing.

In *Osgood v. Circuit Judge*, Mich. Mandamus Cases 370, relators had made application and payment for certain lands, and in proceedings instituted by mortgagee to set aside decree of sale relators filed petition to intervene and gave notice that their petition would be brought on for hearing on the day fixed in an order made requiring the Auditor General to show cause why the petition of the mortgagee should not be granted; but counsel for relators failed to appear in court on that day until after the court had made an order denying relators' leave to intervene. Mandamus to compel respondent to set aside this order denied.

The owner of lands which have been sold by the State for taxes cannot be heard to complain that the Auditor General accepted the personal check of the purchaser in payment of the lands.—*Hubbard v. Auditor General*, 120 M. 506.

Provision of this section not applicable to purchase at annual tax sale.—*Berkey v. Burchard*, 119 M. 105.

The business of dealing in tax titles is lawful and is recognized and encouraged by tax laws.—*Aitchison v. Huebner*, 90 M. 634. Officers and clerks in Auditor General's Department and State Land Office prohibited from purchasing.—1821-2 C. L. '97. Further as to who may not acquire title by purchase, see Sec. 72.

A tax deed issued by the Auditor General and not supported by a valid sale and decree is void.—*Citizens Savings Bank v. Auditor General*, 123 M. 511.

The grantee of a life estate cannot by the purchase of tax deeds acquire title adverse to the remainderman.—*Jeffers v. Sydnam*, 129 M. 440.

Until the purchaser at a tax sale obtains a deed, no title passes to him. He cannot maintain an action to quiet his tax title or set it up as a defense against the original owner.—*Boardman v. Boozewinkel*, 121 M. 320.

A purchaser may gain possession by application for a writ of assistance, and he need not necessarily resort to an action at law.—*Beck v. Finn*, 122 M. 21.

Taxes are not paid and the lien thereof continues, though a check therefor is given, till presentation and payment of the check where persons apply to purchase State tax lands without paying the subsequent taxes thereon, one thereafter paying such taxes and making application to purchase has the right thereto.—*Moore v. Auditor General*, 122 M. 509.

The general rule that one tenant in common cannot acquire an outstanding title adverse to his co-tenant, and that the purchase of such title inures to the benefit of all the co-tenants upon equitable distribution being made, is subject to an exception where the cotenants have acquired their respective titles by different instruments and at different times and no relationship of trust or confidence exists between them, and where the outstanding title has not been created nor suffered to arise through the default of the purchasing co-tenants.—*Boynton v. Veldman*, 9 D. L. N. 447.

A tenant in common did not acquire the title of his co-tenants by purchasing at a tax sale for village taxes, the purchase operating merely as a payment of taxes.—*Sleight v. Roe*, 125 M. 585.

Blackwood v. VanVliet, 30 M. 118, held that owner cannot acquire title; nor can one holding contract.—*Curran v. Banks*, 123 M. 594.

Mortgagee's purchase amounts to a redemption.—*Porter v. Corbin*, 124 M. 261. Where a man mortgaged two pieces of land, one of which he afterward deeded to his wife, and both pieces were sold for taxes levied subsequent to the mortgage, and bought by the mortgagor in the name of his wife, the wife would not be permitted to set up the tax title thus acquired to defeat the mortgage, since such purchase amounts merely to a payment of the tax.—*Chamberlain v. Forbes*, 126 M. 86.

Titles purchased on behalf of the owner of the original title whether valid or invalid, are merged in the original title and not subject to cancellation.—*Cilpinger v. Auditor General*, 10 D. L. N. 664.

A party cannot acquire title to land by purchase for a tax any part of which it was his duty to pay.—*Horton v. Sanders*, 13 M. 409. See Secs. 72, 113, 139, 140-2.

Sale no bar to subsequent taxes.

SEC. 85. (3908) Neither the sale of State tax lands, nor the sale of any of the bids of the State for which the time of redemption has not expired, shall in anywise prejudice the right to enforce the collection of any tax subsequent to the year or years for which the same has been sold as aforesaid, and for the taxes and charges remaining unpaid for said subsequent year or years the Auditor General shall cause such lands to be offered in regular succession at the next ensuing annual sales

for taxes, giving notice as required by law, unless previously redeemed or otherwise discharged.

See Sec. 139.

SEC. 86. (3909) In all cases where it shall become necessary, in the prosecution of an action of ejectment by any person holding an adverse claim to any lands hereafter bid in for the State as provided in this act, the Auditor General may be defendant, and in all cases in the prosecution or defense of an action of ejectment or trespass by any person holding or claiming land under any deed or deeds or other conveyance of land bid off or purchased for delinquent or unpaid taxes, the party reclaiming under and by virtue of such purchase for unpaid taxes may show his title to said land and premises, whether the same was derived under one or more purchases or sales for taxes or otherwise, and may give in evidence any and all deeds of conveyance or other legal evidence of such purchase as aforesaid, which he may have received on sales for taxes, and may claim title under any or all of them: *Provided*, In no case shall the State or county be required to refund any taxes or money by reason of defect in said taxes or sales, prior to the particular tax or deed which may be decreed valid.

Adverse claim.

Ejectment.

Evidence.

Proviso.

Action of ejectment.—10947-11012 C. L. '97. The statute places no limitation on actions of ejectment.—Harrison v. Spencer, 90 M. 586. One who paid for and procured a tax deed and caused it to be recorded is properly subject to an action of ejectment.—Tillotson v. Webber, 96 M. 144.

Quieting title.—448 C. L. '97; 11182-4 C. L. '97. The State is bound by statutes of limitation and can give no title by selling after twenty years an old tax bid for premises that have meanwhile been held adversely long enough to bar ejectment from them.—Chamberlain v. Ahrens, 55 M. 111. See also State v. F. & P. M. R. R. Co., 89 M. 481. Purchasers take not more than the deed gives them. Plaintiff in ejectment having established title to undivided one-third, judgment in his favor for entire premises cannot be sustained.—Reilly v. Blaser, 61 M. 399.

A single judgment in ejectment is not necessarily final for any purpose.—Rice v. Auditor General, 30 M. 12. Ejectment for distinct parcels of land must be brought against each separate holding.—Walsh v. Varney, 38 M. 73. The holder of a tax title whose occupancy consists in making improvements and not in actual residence, can bring ejectment against one who has forcibly entered without right and by stealth.—Van Auken v. Monroe, 38 M. 725. In ejectment to obtain possession of land held under land contract the vendee is estopped from showing title which had accrued through his fault or neglect.—Hubbard v. Shepard, 117 M. 25.

A tax deed giving a prima facie title constitutes a perfect defense in an act of ejectment.—Conn. M. L. Ins. Co. v. Bulte, 45 M. 113. Title by deed is a question of fact.—Demill v. Moffat, 45 M. 410. Summary proceedings to recover possession of lands will not lie against holder of a tax title antedating a mortgage under foreclosure of which complainant claims. The holder of a tax title may fortify it by purchasing earlier tax titles and incumbrances.—Brown v. Martin, 49 M. 565. Cumulative titles.—See Lacey v. Davis, 4 M. 140.

In action of ejectment it is not error to admit in evidence a tax deed without first proving the regularity of the proceedings for the assessment of the taxes.—Dubois v. Campau, 24 M. 360. Where proceedings to foreclose a tax lien are regular, the decree is conclusive upon owner who is brought in by publication, and neither he nor his grantee can question the validity of the tax in an action of ejectment brought against the grantee in the deed issued upon a sale made under said decree.—Cole v. Shelp, 98 M. 56.

Tax deed cannot be attacked collaterally on the ground that no certified copy of decree was attached to the Tax Record. Failure to so attach is not an irregularity which prejudices property rights.—A contention that the extension of the taxes opposite the lands of defendant was made after decree was signed cannot be raised in ejectment.—Gates v. Johnson, 121 M. 603. Tax deed cannot be attacked in a collateral proceeding on the ground that decree was void because when included in Auditor General's petition the land had been bid to the State and was thus held.—Peninsular Savings Bank v. Ward, 118 M. 93; Hoffman v. Pack, Woods & Co., 123 M. 74. The tax deed fair on its face cannot be attacked by parol in collateral proceedings.—Haven v. Owen, 121 M. 51.

The validity of a tax record will be presumed in a collateral proceeding, and it is not competent for the land owner in such proceeding to attempt to impeach it by the parol testimony of its lawful custodian.—Wilkin v. Keith, 121 M. 66.

Defendant in ejectment who fails to connect himself with the original title,

etc., cannot question the title of the plaintiff under tax deeds.—*Jennings v. Dockham*, 99 M. 258.

Every sale of land under our tax system is a sale of the complete title and if legal, all prior titles are cut off by it.—*Sinclair v. Learned*, 51 M. 335; *Westbrook v. Miller*, 64 M. 129. A tax title if valid destroys and cuts off all liens and incumbrances previously existing against the land, even homestead and dower rights.—A finding in an ejectment suit brought by one claiming under tax title that the lands were sold to the State for subsequent delinquent taxes and that a third person became the purchaser of the rights of the State therein is a finding of an outstanding title in such third person *prima facie* valid and free from all prior liens.—*Robbins v. Barron*, 32 M. 36.

Former owner cannot defeat a tax title by showing an action of ejectment that he attempted to make payment. His remedy is Sec. 70 or Sec. 98.—*Kneeland v. Wood*, 117 M. 174.

When tax deeds are introduced the presumption is that the proceedings prior to issuing the tax deeds are regular, and the burden is on the plaintiff to show a fatal irregularity if any existed.—*Anderson v. Besser*, 9 D. L. N. 412.

The right of parties who have purchased timber cut from lands sold for taxes cannot be litigated in a proceeding by the original land-owner to set aside a tax sale and deeds issued thereon.—*Cook v. Hall et al.*, 128 M. 378.

Act 200, laws of 1891, contained no provision for refunding on a void sale and the Auditor General has no power to make repayments except where authorized by statute.—*Crane v. Reeder*, 25 M. 320; *Rice v. Auditor General*, 25 M. 121; *Ball v. Auditor General*, 10 D. L. N. 273.

A plaintiff in ejectment can only recover on the title alleged in the declaration and not on an after acquired title.—*Nowlen v. Hall*, 128 M. 274.

OF ACCOUNTS AND SETTLEMENT THEREOF.

Tax accounts. SEC. 87. Am. Act 154 of 1895 and Act 224 of 1897. (3910) Am. Act 83 of 1899. The accounts between the State, county and each township shall be adjusted on the basis of crediting and paying to each the taxes collected by and for each with the interest thereon. The Auditor General shall, on the first day of January, April, July and October in each year, make a statement of account between the State and each county respectively, and render the same to the county treasurer of each county, and draw his warrant on the State Treasurer, payable to such county treasurer, for all moneys in the State Treasury collected for the county, township, school, highway or any other purposes for such county or township or district thereof, and transmit such warrant to the county treasurer, and notice to the county clerk thereof. At the same time the county treasurer shall pay to the State all moneys collected and due from their respective counties to the State, as shown by such account so rendered by the Auditor General to be due the State: *Provided*, That on January fifteenth, and each thirty days thereafter until the regular quarterly settlement for the quarter ending March thirty-first shall have been made each year, the county treasurer shall pay to the State all moneys coming into his hands from the collection of said State tax. The county treasurer of each county shall, on or before the first day of February, May, August and November in each year make out a detailed statement of the account between the county and the several townships or cities, which statement shall show the different funds to which the several debits and credits belong, and render the same to the township or city treasurer, and pay all moneys shown by said statement so rendered to the township or city to the proper receiving officer of the township or city, and notify the township or city clerk of the items and total amount thereof; also a description of the

Auditor General's quarterly statement.

Payments to county, etc.

Payment to state.

Proviso.

Accounts between county and townships.

lands upon which such taxes were paid. The county clerk shall charge such amounts to the county treasurer, and the township or city clerks shall charge such amount to the township or city treasurers on the books of their respective offices: *Provided*, That in the county of Kent the county treasurer shall not be required to make a detailed statement.

Duties of county and township clerks.

Proviso.

When Auditor General pays county money to county treasurer the county must be regarded against all others than the treasurer as having received it.—*Roscommon v. Midland Supervisors*, 49 M. 454. Mandamus does not lie to compel the Auditor General to pay over to a county money which has been withheld from it in the periodical settlements under a mutual mistake of law. Where money has gone in to the State treasury as part of a general balance rightfully received, and not as a separate and independent item wrongfully received, mandamus will not lie to require its repayment, nor can any suit be maintained for it unless voluntarily allowed within the authority of some proper officer. When a State sues it is limited in its recovery by any defenses that might be set up by individual plaintiffs. A State cannot be sued in its own courts without its own consent; nor can any suit that is really against the State be maintained against a State officer. Executive discretion cannot be judicially reviewed; and where the action of any officer to whom the State confides the auditing of claims against it is anything but ministerial it cannot be reviewed.—*Ambler v. Auditor General*, 88 M. 746.

In controversy between the State and a county growing out of tax proceedings the State, while represented by the Auditor General, is the real party in interest, and in the legal positions taken speaks through the Attorney General and the county speaks by the board of supervisors. There should be no effort to obtain an unjust advantage by one over the other, and courts will not allow such a thing to be done, but will apply the rule of justice and equity in its broadest sense to the matters of difference between such parties. The proceeding by mandamus to which the parties are compelled to resort in such cases can only be taken in the court of last resort, to which the largest discretion is given; and the court may in its discretion refuse the writ unless the applicant consents to do equity.—*Auditor General v. Saginaw Co. Supervisors*, 62 M. 579. See *Haines v. Supervisors of Co. of Saginaw*, 87 M. 237; 99 M. 32. Counties not estopped by settlements from asking that illegal charges be stricken from account sought to be enforced by mandamus.—*Auditor General v. Midland Supervisors*, 84 M. 121. In mandamus proceeding to compel county to collect and pay indebtedness to State, county cannot set off moneys previously paid to the State in excess of amount legally demandable. Where the petition in such case states the account between the State and the county from a specified date, the county may contest the validity of any of the items embraced within the account, although a balance shown to be due to the State at a subsequent date was paid by the county.—County cannot refuse to pay over State tax on the ground that apportionment to it included territory detached and organized into another county, but must look to the new county for reimbursement. Pay of State troops in aid of civil authorities, 1623 C. L. '97, a proper charge to the county.—*Auditor General v. Bay Co. Supervisors*, 106 M. 862.

County treasurer cannot refuse payment to State treasurer of State taxes collected on ground that county claims to have money due it from the State, and he will not be protected by action of board of supervisors directing non-payment. County treasurer in collecting State tax acts for the State, and board of supervisors has no control over the money thus collected, and he cannot mingle the account of the State tax collected with the account between the county and the State.—*Auditor General v. Tuscola Co. Treasurer*, 73 M. 28. In petition for mandamus to compel levy of tax to pay amount due State, respondent claims amount alleged to be due county as an offset. Held in nature of assumpsit and an irregular form of action against the State which cannot be maintained.—*Auditor General v. Grand Traverse Supervisors*, 73 M. 182.

Held proper to charge counties interest upon taxes charged back to the county; upon items erroneously credited to county and afterwards charged back; upon moneys paid for the use of the county for the benefit of deaf, dumb or blind, and upon periodical balances due from the county.—*Auditor General v. Shiawassee Supervisors*, 74 M. 536. Auditor General cannot open account with township but only with county.—Mandamus will not lie to compel payment by Auditor General of redemption of township taxes when during the period covered the county has been indebted to the State.—*Ottawa Supervisors v. Auditor General*, 69 M. 1.

County treasurer has no right to retain out of money admittedly due a city a sum equal to the delinquent personal taxes due the county for which he has issued his warrant to the city treasurer to collect.—*City of Muskegon v. Soderberg*, 111 M. 559. Mandamus will not lie to compel payment by county to township of moneys claimed to be due for taxes received from Auditor General and others when the account between the county and township has not been stated and no settlement has been made showing the state of account; but in such case assumpsit could be maintained by township to ascertain the amount due.—*Township of Cumming v. Ogemaw Co.*, 93 M. 814; see also 100 M. 567. Failure of board of supervisors to have a deficiency occasioned by default of township treasurer added to the next year's tax does not affect the right of the county to charge the deficit to the township.—*Oceana Co. v. Hart Township*, 48 M. 819.

County liable for interest on balances.—*Auditor General v. Ottawa Supervisors*,

76 M. 295. Township, school district and road district taxes should be accounted for by the county to which the returns were made, and with the respective townships and districts for which they were levied.—*Clare Co. v. Auditor General*, 41 M. 182.

Where taxes have been rejected by the Auditor General the State is entitled to have the deficiency from such rejected taxes paid over at the next quarter settlement the amount of State tax with interest and expenses.—*Auditor General v. Bolt*, 124 M. 185.

In mandamus proceedings to require an adjustment between the State and county upon the basis of a decree granted on the petition for the sale of town lands: *Held*, that the court had jurisdiction of the subject matter and the decree entered concludes all parties to the proceeding.—*Warren, County Treasurer v. Auditor General*, 9 D. L. N. 248.

See Sec. 42.

Report of tax payments and sales.

SEC. 88. (3911) The Auditor General shall, on the first Monday in each month, transmit to the treasurer of each county a list of the lands therein upon which the taxes have been paid to the State Treasurer, and also a list of all lands bid in to the State which have been sold during the preceding month, and upon receiving such lists the county treasurer shall make the proper entries showing such payment or sale. Where a sale has been made by the Auditor General the county treasurer shall note the fact upon the tax record.

See Sec. 84.

Interest and collection fee.

SEC. 89. (3912) Am. Act 262 of 1899. To all taxes unpaid on the first day of March next after their assessment there shall be added interest at the rate of one per cent per month or fraction thereof, and to all taxes returned to the county treasurer there shall also be added a collection fee of four per cent. Such interest and collection fee shall be collected with such taxes, and the interest and taxes to be paid to the State, county and township, in proportion to their several rights therein. The collection fee paid to the county treasurer shall belong to the general fund of the county, and that paid to the Auditor General shall belong to the general fund of the State. No other charges shall be added to any taxes voluntarily paid either to the township treasurer, the county treasurer or the State Treasurer, except the expense after it accrues under section fifty-nine of this act.

Part of public funds.

Accrued expense.

Collection fee paid to county treasurer on sales or redemptions belongs to county.—*Auditor General v. Bay Supervisors*, 106 M. 662.

This section does not apply to taxes for years where sales are canceled.—*Schultz v. Auditor General*, 9 D. L. N. 486.

Compensation of officers.

SEC. 90. (3913) All compensation of officers in the assessment and collection of taxes in townships and in the return of delinquent taxes to the county treasurer, except fees collected by township treasurers on their tax rolls, shall be paid by the township. All compensation of county officers and expense incurred by them under the provisions of this act shall be paid by the county, and the compensation of all State officers and expenses by them incurred or paid, shall be paid by the State. Expenses made by the State officers shall be audited by the Auditor General and paid out of the general fund.

As to compensation of county officer whose annual salary has been fixed by board of supervisors see *People v. Board of Auditors*, 13 M. 233; *Stetson v. Supervisors of Calhoun Co.*, 36 M. 10. Board of supervisors may include compensation of county treasurer amount received for office charges on payment.

Munger v. Clerk of Board of Supervisors, 38 M. 307. Collection fee may be made part of compensation of county treasurer by board of supervisors.—People v. Reigel, 120 M. 78.

The tax law prescribed the major part of county treasurer's duties and every change in or amendment to that law does not create an implied obligation to pay extra compensation for the new duties thereby imposed.—Backus v. County Treasurer, 99 M. 218. Compensation of county treasurer, 2542 C. L. '97; of prosecuting attorney.—2562 C. L. '97, see also 2649 C. L. '97; of county clerk.—2576 C. L. '97.

See Sec. 110.

SEC. 91. (3914) All losses that may be sustained by the default of any township officer in the discharge of any duty imposed by this act, shall be chargeable to such township. All losses by default of any county officer shall be chargeable to such county, and all losses by default of any State officer shall be chargeable to the State.

Losses by default in discharge of duty.

Assessors will remember that any failure to perform the duties imposed upon them by the tax law will not be borne by the State but eventually, if not immediately, the loss falls upon their own township.

One item occasioning much loss is the return of land erroneously described, and in large part this expense would be avoided by the rejection of such descriptions by county treasurers when they receive and compare the township treasurer's return, as provided in Sec. 55.

Board of supervisors has no authority by resolution or otherwise to relieve the county treasurer or his bondsmen from liability under the law.—Op. Atty. Genl., 1902, p. 111.

Expenses incurred by the State in attempting to collect taxes which, for some error of a county or township officer, cannot be collected, the county is liable to the State for the expenses and for interest on the rejected taxes.—Auditor General v. Bolt, 124 M. 185.

MISCELLANEOUS PROVISIONS.

SEC. 92. (3915) The Commissioner of the State Land Office shall, during the month of March in each year, furnish to the several county treasurers a list of all part paid State lands, and also of all licensed homestead lands that have been licensed for a term of five years and over, and upon which patents have not been issued, together with the date of each license and the name of the licensee, in their counties respectively, and such treasurers shall, on or before the tenth day of April next thereafter, cause to be delivered to the supervisor of each township affected thereby an accurate description of all such lands in his township, with the names of the persons holding the same.

Part paid state lands.

Licensed homestead lands.

Lists to be furnished to supervisors.

Commissioner to furnish county treasurers each year in time for assessment lists of swamp lands patented as provided in 1512 C. L. '97; and such lands shall be subject to assessment and taxation as other assessable and taxable lands.—1513 C. L. '97. County treasurer to furnish lists to supervisors.

See also 1386 C. L. '97.

SEC. 93. (3916) Every county treasurer shall, before entering upon the duties of his office, execute to the Auditor General a bond, in such sum as the said Auditor General shall direct with three or more sureties, to be approved by the prosecuting attorney, judge of probate, and the county clerk of the proper county, or any two of them and the Auditor General, conditioned that such treasurer, his deputy, and all persons employed in his office, shall render a just and true account of all moneys received by him or them belonging to the State, and that he or they shall faithfully and promptly pay to the State Treasurer all such moneys received as aforesaid according to law, which bond shall be filed in the office of the Auditor

County treasurer's bond.

Who to approve.

Conditions.

Auditor General may require new bond.

Cause for removal of county treasurer.

General. Whenever the Auditor General shall deem proper he may require of the county treasurer a new bond with sureties to be approved as aforesaid, and for such sum as he may deem necessary, and if the county treasurer from whom a new bond shall be so required shall not execute such a bond within ten days after he shall have received notice of such requirement, such failure may be deemed sufficient cause for the removal from office of such treasurer.

Deputy County treasurer.—2536 C. L. '97. Fraud or embezzlement in office of county treasurer.—11563-5, 11612-14 C. L. '97. Sureties to justify.—159-6 C. L. '97. Sureties disqualified from approving bond.—Stevenson v. Bay City, 28 M. 44.

Delivery of bond to Auditor General is in law a part of its execution.—Endorsement of Deputy Auditor General has same force and validity as if signed by Auditor General himself and shows approval and acceptance by Auditor General. An obligation having been incurred under bond that had not been properly approved, but otherwise in compliance with requirements of the statute, neither the county treasurer nor his sureties can be heard to insist upon such approval for the purpose of defeating their liability.—People v. Johr, 22 M. 461. See Sec. 94.

County treasurer's bond is cumulative security to the State for the proper performance of such duties to the State as are imposed upon him by the general tax law.—Attorney General v. Supervisors of St. Clair Co., 30 M. 388. County treasurers are responsible as debtors and not as bailees merely for the county funds to come into their hands and their liability is absolute and not affected by unavoidable loss or accident.—Perley v. Co. of Muskegon, 32 M. 132.

Where a bond is given to a public officer under statutory requirements, the official obligee is invested with a legal interest, and is the proper plaintiff in a suit to enforce its provisions and penalties. Public officers have capacity to sue commensurate with their public trusts and duties and need no statutory authorization.—Berrien Co. Treasurer v. Bunbury, 45 M. 79.

The mere fact that some county records had been lost and vouchers destroyed after settlements have been made with the county treasurer, does not prevent recovery on the treasurer's bond, where there is evidence showing errors in the settlement. The treasurer and his bondsmen cannot defend upon the ground that he received township orders and due bills from his predecessor, where he entered them as cash upon his books.—Montmorency Co. v. Wiltse, 125 M. 47.

Employment of other persons to conduct sales, when.

Bond.

Conditions.

Compensation.

SEC. 94. (3917) In case the said county treasurer shall refuse or neglect to execute and file any such bond at the time and in the manner aforesaid, the Auditor General shall employ, in behalf of the State, some other person to conduct the sales of lands delinquent for taxes, and to receive payment therefor, under his direction, upon such person executing and filing with the said Auditor General, a similar bond with sureties as above mentioned, to be by him approved, conditioned for the faithful and prompt payment to the State Treasurer of all moneys which may come into his hands as the proceeds of such sales or otherwise, and a reasonable compensation for the services of such person shall be allowed and paid out of said proceeds.

When bond is not properly approved it is the duty of the Auditor General to refuse it and to decline to allow the county treasurer to make the tax sale.—People v. Johr, 22 M. 461.

Authority to withhold from sale.

Taxes charged county and townships, when.

SEC. 95. (3918) If the Auditor General shall discover before the sale of any lands, as aforesaid, that for any reason they should not be sold, he shall cause the same to be withheld from sale; and if the error originated with the township or county officers the amount of such taxes shall be charged against the county from which the same was returned; if such error was made by a township officer the amount thereof shall be charged by the county treasurer to the township in which such error oc-

curring. If there has been a change in the boundaries of any county or town in which the lands are situated after the return of such taxes, such rejected taxes shall be charged to the county to which the lands belong at the time of such rejection. Change in boundaries.

The county is responsible to the State for the regularity of the taxes returned, and in case any tax is found to be illegal and set aside by the proper State authority in the manner pointed out by law it is charged back to the county and the county is bound to make it good.—Auditor General v. Supervisors Monroe Co., 36 M. 71.

No outlawry as between State and county or between county and township. A township liable to the county for taxes rejected by the Auditor General is also liable for the interest legally chargeable to the county on such taxes.—Mason v. Hazelton Township, 82 M. 440.

Unauthorized charging back by clerk in Auditor General's department held not to be an abandonment of the petition for sale or of the right to a rehearing.—Auditor General v. Kanaar, 114 M. 802. Auditor General shall not cancel taxes assessed on railroad lands patented to land grant railroad companies unless upon decree of supreme court.—3977 C. L. '97.

The State is not authorized to charge back to the county because of injunction taxes returned delinquent until they have been rejected or held invalid by some competent authority; but where Auditor General has authority to reject them and does so for adequate causes the fact that he did not wait for a decree would not be important.—Auditor General v. Supervisors of Monroe Co., 36 M. 71. When exempt lands have been taxed Auditor General may reject taxes on his own motion, and may be compelled to do so by mandamus.—People ex rel. Throop v. Auditor General, 9 M. 134. The action of the Auditor General in charging back to a county certain taxes in the settlement with the county being the exercise of an official discretion belonging to an executive department of the State government is not subject to judicial review and cannot therefore be examined upon certiorari.—Supervisors of Midland Co. v. Auditor General, 27 M. 165. Taxes rejected by adjudication of court for want of lawful equalization may be charged back and reassessed as well as those rejected by the Auditor General.—Auditor General v. Gurney, 109 M. 472.

Provision contemplates rejection and annulling of the taxes, leaving them no longer in existence for any purpose. No taxes can be charged back without putting an end to them.—People ex rel. v. Throop v. Auditor General, 9 M. 134. But see Sec. 96 for provision for reassessing.

Auditor General properly rejected taxes which were not lawfully imposed.—Chippewa Supervisors v. Auditor General, 65 M. 408.

Where taxes have been rejected by the Auditor General the State is entitled to have deficiency from such rejected taxes paid over at the next quarterly settlement the amount of State tax with interest and expenses.—Auditor General v. Bolt, 124 M. 185.

See Secs. 73, 98.

SEC. 96. (3919) The Auditor General shall prepare and forward to the county treasurer a statement of such rejected taxes, and a description of the lands upon which the same were assessed; and such county treasurer shall lay the same before the board of supervisors at their next session thereafter, and if such taxes shall have been rejected or charged back by the Auditor General, except for the reason that such land was not subject to taxation at the time of assessment for such taxes, or that the taxes thereon had been paid, or that there had been a double assessment thereof, the board of supervisors shall cause the same to be reassessed upon the same land, and collected with the taxes of the then current year, and in the same manner. If such taxes cannot be properly reassessed upon the same lands, the board of supervisors shall cause the same to be reassessed upon the taxable property of the proper township. Statement of rejected taxes.

Change of title no bar to reassessment.—Cooley on Taxation 811. Taxes charged back are to be reassessed upon the same lands if rejected for mere informality or upon the whole township if absolutely illegal.—People ex rel. Throop v. Auditor General, 9 M. 134. Reassessments must be made in accordance with the law in force without reference to the law as it stood when the original assessment was made.—Brevoort v. Detroit, 24 M. 322. If tax is originally void by reason of having been levied for illegal purpose, it is not subject to reassessment; but a judicial decision against the first assessment; based on errors and defects merely is no bar to reassessment.—Cooley on Taxation 312. Reassessment is a continuing power, not exhausted until an assessment is made which can be enforced.—Brevoort v. Detroit, 24 M. 322. But the charged-back list should be acted upon at the next session Reassessment of rejected taxes.

after its receipt by county treasurer, and if reassessment is not made in "the then current year," its validity is at least questionable.

In reassessing taxes upon the same land, the same details as to acreage, items of tax, etc., must be distinctly given as in the original assessment, and the reassessment must specify the year for which the taxes reassessed were first assessed; but no interest or other charges not included in the original assessment can be added in reassessment.

Reassessment for local improvement, see *French v. Common Council of Lansing*, 30 M. 379. In *Brevooort v. Detroit*, 24 M. 322, a legislative act provided for a new assessment in certain cases where former assessment had been vacated or held invalid. Held if the difficulty was that the sums assessed did not constitute any just or equitable charge for public purposes upon the property upon which it was sought to be imposed, it is quite clear that the legislature could not make it such a charge; but if the defect consisted of some irregularity of proceeding in consequence of which a just and equitable claim has failed to be legally imposed there can be no good reason why the legislature should not retrospectively supply the oversight or cure the irregularity. In *Byram v. Detroit*, 50 M. 56, held that the legislature can authorize reassessment of paying tax to pay for work done in good faith where previous assessment therefor has been held void.

In *Marlette Township v. Smith*, Mich. Mandamus Cases 135, mandamus was denied to compel respondent (county treasurer) to pay over certain moneys claimed to be due the township, it appearing that certain taxes charged back by Auditor General had been ordered reassessed, the township declining to make the assessment and the amount remaining charged against the township. See *Auditor General v. Bolt*, 124 M. 185.

As to reassessment of drain taxes charged to county see *Mason v. New Haven Township*, 82 M. 435; *Mason v. Hazleton Township*, 82 M. 440. Further as to reassessment see *Tweed v. Metcalf*, 4 M. 579.

Advertised list for tax of 1895 included reassessed 1893 taxes all under "1895 taxes," without specifying that a part was the reassessed tax. *Held*, that the taxes were in fact assessed in 1895.—*Flint Land Co. v. Auditor General*, 10 D. L. N. 276.

Where an assessment described the property as the center 22 feet of a certain lot, and the tax was charged back to the county by the Auditor General because of indefiniteness of description, a reassessment pursuant to resolution of the board of supervisors on the same land, was invalid, though containing a definite description, since the description in the first assessment was too indefinite to be the basis of a tax.—*Smith v. Auditor General*, 125 M. 576.

A reassessment of a void tax without the authority of the board of supervisors is void.—*Gage v. City of Saginaw*, 128 M. 682.

The object of charging back taxes is to offset or discharge the credit given to the county for the taxes when first returned to the Auditor's office.—*Throop v. Auditor General*, 9 M. 134.

Detached lands.

SEC. 97. (3920) It shall be the duty of the board of supervisors to furnish to the Auditor General a list of all taxes which shall have been rejected or charged back to their county by him, upon lands which shall have been detached from such county subsequent to the time when such taxes were assessed, and the Auditor General shall thereupon credit to such county the amount which he may have so far charged back, and charge the same to the country in which such lands may then be situated: *Provided*, Such taxes shall not have been previously paid or reassessed.

Proviso.

SEC. 98. (Am. by Act 80. Laws 1903) Whenever any lands returned to the office of the Auditor General under the provisions of any of the general tax laws, or to the county treasurer during the life of the tax law of eighteen hundred ninety-one, shall have been sold on account of non-payment of taxes thereon, if the Auditor General shall discover before a conveyance of said lands is executed and delivered:

First, That the land so sold was not subject to taxation at the date of the assessment of the taxes for which it was sold; or

Second, That the taxes had been paid to the proper officer within the time limited by law for the payment or redemption thereof; or

Third, That such sale was in contravention of any of the provisions of this act; or

Fourth, That a certificate that no taxes were charged against said lands has been given by the proper officer within the time limited by law for the payment or redemption thereof.

The Auditor General shall withhold a conveyance of such lands and shall, on demand, cause the money paid therefor to be refunded to the purchaser with interest thereon at six per cent per annum: *Provided*, That in the last mentioned case the person in whose behalf such certificate was given shall, at the time of presenting such certificate to the Auditor General, pay to the State Treasurer, on the statement of the Auditor General, all taxes and charges due to the State upon such lands at the time such certificate was issued. If the discovery is not made until after the conveyance has been executed and delivered, a certificate of error may be issued in proper form for record; and the deed, if not recorded shall be surrendered when the purchase money is refunded. If the deed has been recorded, the money shall be refunded on a recorded release from the holder of the tax deed: *Provided further*, That the conveyance of such lands shall not be withheld or a certificate of error issued after a period of five years from the date of sale thereof, except for the reasons, first, that the land described therein was not subject to taxation at the time of the assessment of the taxes for which it was sold; or, second, that the taxes had been paid to the proper officer within the time limited by law for the payment or redemption thereof.

In *People ex rel. Sweet v. Adam*, Auditor General, 3 M. 427, the court held that the act of 1843, containing the same provisions as this section, conferred upon the Auditor General judicial powers into the proper exercise of which the court cannot interfere on motion for mandamus, and that if the relator was dissatisfied his remedy was certiorari.

Mandamus is the proper remedy to compel Auditor General to issue a certificate of error and to determine the validity of his reasons for refusal.—*Hubbard v. Auditor General*, 120 M. 505. Mandamus will not lie to compel a State officer to perform any but an unquestionable and legally defined duty.—*Bresler v. Butler*, 60 M. 40.

The Auditor General on application for a certificate of error, exercises a ministerial rather than a judicial power; and hence his act does not contravene Const. Art. 6, Sec. 1, vesting judicial powers in the courts.—*Northrup v. Maneka*, 126 M. 550.

When the Auditor General issues a certificate canceling a prior tax deed, the deed is insufficient to establish title in the purchaser.—*Nowlen v. Hall*, 128 M. 274.

The power conferred upon the Auditor General by this section to cancel tax deeds, does not apply to deeds issued under the homestead provisions of the tax law.—*Commissioner of State Land Office v. Auditor General*, 9 D. L. N. 249. (Sec. 127.)

Where relator filed a bill to annul a tax deed on various grounds which after final hearing was dismissed, he cannot thereafter maintain mandamus to compel the Auditor General to cancel the deed on the ground that the chancery court was not in session for five days subsequent to the day fixed for the hearing of the prior suit, and before the decree was rendered, since such objection might have been litigated in the chancery suit; and hence the decree dismissing the bill was *res judicata* against plaintiff's on such issue.—*Sayers v. Auditor General*, 124 M. 259.

Auditor General has full authority to cancel under Subs. 1, 2, and 4.—*Northrup v. Maneka*, 126 M. 550; *Nowlen v. Hall*, 128 M. 274; *Mann v. Carson*, 120 M. 631; *Young v. Auditor General*, 118 M. 56; *Thomas v. Auditor General*, 120 M. 535.

A certificate of error, if a judicial act, is one of a limited tribunal whose jurisdiction under ordinary rules should appear upon the face of its proceedings. A certificate of error which shows affirmatively that it was issued upon a supposed error or defect, which is clearly not such as a matter of law, is void and can be attacked in a collateral proceeding.—*Vetterly v. McNeal*, 129 M. 507.

One who did not raise any objections when proceedings were taken to establish a drain is estopped, after it is nearly completed, from objecting to such proceedings in an action to sell their land to pay the special drain taxes.—*Auditor General v. Melse*, 124 M. 285.

Act 200 of the laws of 1891 made no provision for refunding when sales set

aside. "In the absence of such provision for repayment the purchaser buys at his risk, and takes only such title as the State had. *Crane v. Reeder*, 25 M. 320; *Rice v. Auditor General*, 30 M. 12."—*Bail v. Auditor General*, 10 D. L. N. 273.

SUB. 1. Where there is a discrepancy between the description in the recorded plat and that in the tax deed, a certificate of error canceling the deed may be issued.—*Jackson v. Sloman*, 117 M. 126; See *Cole v. Auditor General*, 9 D. L. N. 631.

SUB. 2. A sale for taxes for a year in which it was shown the tax was twice assessed and once paid is invalid.—*Rayner v. Lee*, 20 M. 384. Where taxes had been paid before sale on part of the land returned, Auditor General properly withheld conveyance of the entire description, which had been returned and sold without excepting the part on which the taxes were paid.—*Kneeland v. Auditor General*, 113 M. 63. Certificate of error properly introduced in evidence to show deed had been canceled.—*Wood v. Bigelow*, 115 M. 123. Certificate was issued by Auditor General on presentation of receipt showing taxes paid before sale. Purchaser refused to recognize certificate and brought action of ejectment. Defendants had verdict below. Affirmed.

Payment of taxes may be proved by parol.—*Hammond v. Hannin*, 21 M. 374. Where a city council assuming the invalidity of a sidewalk tax for a certain year ordered the tax reassessed in the following year and the land was sold for the taxes of both years, and the owner in due season sought to redeem from the second sale, the Auditor General was justified in canceling the former sale and issuing a certificate of error.—*Youngs v. Auditor General*, 118 M. 550.

SUB. 3. No title can be valid which is acquired against law.—*Attorney General v. Smith*, 31 M. 359. Attempts to buy out outstanding claims do not necessarily admit their validity.—*Chapin v. Hunt*, 40 M. 595.

Sale under void publication is made in contravention, etc., within the meaning of Sub. 3. It would not be contended that if relator's deed was held void by some court that he would not be entitled to have his money refunded. Neither will it be contended but what it would be the duty of a court to hold it void in a proper proceeding. We do not see how any good purpose can be served in requiring such a proceeding to be brought before the relator could obtain his money.—*Gurd v. Auditor General*, 122 M. 151. This case overruled in *Cole v. Auditor General*, 9 D. L. N. 631.

A land owner held not estopped by the entry of a decree in proceedings instituted by him attacking the validity of a decree entered in tax proceedings from testing the validity of a sale made by the Auditor General subsequent to the decree.—*Conley v. Auditor General*, 123 M. 83.

One applying for mandamus to compel the Auditor General to issue a certificate of error as to a decree under which certain lands were sold for taxes cannot as a ground for the issuance of such certificate, urge that all taxes which were a lien and a charge on the lands were not paid by the purchaser at the time when the tax titles were acquired, or that the lands sold were included in the petition of the Auditor General for years subsequent to which they had been bid in by the State, and that amounts not authorized by law were included in the judgment for taxes, and adjudged a lien against the property, since such matters are concluded by the decree, and could have been raised only in opposition to the petition of the Auditor General.—*Cook v. Auditor General*, 124 M. 430.

Where one who obtained a tax deed filed a bill against J. and others to settle title to the land, in which suit the regularity of the tax proceedings and the validity of said deed were directly involved, the decree for complainant therein is conclusive in mandamus proceedings by the devisee of J. to compel the Auditor General to cancel said deed.—*Hanchett v. Auditor General*, 124 M. 424.

The authority of the Auditor General to issue certificates or to withhold deeds under Subs. 1, 2, and 4, is upheld. Sub. 3 does not give the Auditor General power to go back of the decree of the court and review the validity of any of the proceedings prior to the decree, but confers only the power to cancel deeds for irregularities occurring after the decree.—*Cole v. Auditor General*, 9 D. L. N. 631.

Failure of the Auditor General to figure interest properly held not to invalidate a tax sale to the owner of the original title.—*Clippinger v. Auditor General*, 10 D. L. N. 664.

SUB. 4. Where owner had written county treasurer to ascertain amount of his taxes and on receiving reply stating that all his taxes were paid except on a designated parcel had paid the amount stated, the Auditor General was warranted in refusing to convey to an applicant a parcel sold for unpaid taxes which were payable when the county treasurer had advised the owner as above. Owner having called for and paid all demanded cannot lose land by mistake of officer.—*Hand v. Auditor General*, 112 M. 599. Where owner in reliance upon statement furnished by city treasurer pays the amount of tax shown, land cannot be sold for taxes which failed of payment because of such misstatement.—*Hough v. Auditor General*, 116 M. 663. Certificate of error ordered issued where it was made to appear that owner had failed to pay relying on certificate of county treasurer that the taxes had been paid.—*Carpenter v. Jones*, 117 M. 91. Defense that owner was prevented from paying taxes by statement of officer that no taxes were due cannot be interposed to a bill of equity filed by purchaser under tax decree. Owner must avail himself of his statutory remedy (as provided in above section or in Sec. 70).—*Kneeland v. Hyman*, 118 M. 56; *Kneeland v. Wood*, 117 M. 174.

No limit of time is fixed within which Auditor General may issue certificate of error as provided in above section. Certificate may be issued whenever showing is made and Auditor General may satisfy himself by any competent proof.—*Kneeland v. Wood*, 117 M. 174. There is no equity in seeking to avoid both lien and debt.—*Waldron v. Murphy*, 40 M. 668.

A valid decree of a chancery court for the sale of lands for taxes cannot be vacated by the Auditor General in issuing a certificate of error against a tax deed issued on the sale of land pursuant to the decree.—*Flint Land Co. v. Auditor General*, 10 D. L. N. 276.

Sub. 4, Sec. 98, gives relief to those who have been misled by certificates issued by the proper officers, but this relief being statutory applies only to such cases. It does not apply to State tax lands or to canceled sales of State tax lands.—*Schulte v. Auditor General*, 9 D. L. N. 486.

Auditor General cannot refund a tax if land was subject to assessment and actually assessed whether legally or illegally, and no attempt has been made to pay them.—*Flint Land Co. v. Auditor General*, 10 D. L. N. 276.

Sec. 99. (1922) No tax assessed upon any property, or sale therefor, shall be held invalid by any court of this State on account of any irregularity in any assessment, or on account of any assessment or tax roll not having been made or proceeding had within the time required by law, or on account of the property having been assessed without the name of the owner, or in the name of any person other than the owner, or on account of any other irregularity, informality, or omission, or want of any matter of form or substance in any proceeding that does not prejudice the property rights of the person whose property is taxed; and all proceedings in assessing and levying taxes and in the sale and conveyance therefor, shall be presumed by all the courts of this State to be legal, until the contrary is affirmatively shown. All records, statements and certificates herein provided for shall be *prima facie* evidence of the facts therein set forth. The absence of any record of any proceeding or proceedings, or the omission of any mention in any record of any vote or proceeding, or of mention of any matter in any statement or certificate that should appear therein under the provisions of any law of this State, shall not affect the validity of any proceeding, tax, or title depending thereon, provided the fact that such vote or proceeding was had or tax authorized is shown by any other record, statement or certificate made evidence by the terms of this act or any other law of this State. No tax, or sale of property for any tax, shall be rendered or held invalid by showing that any record, statement, certificate, affidavit, paper or return cannot be found in the proper office; and unless the contrary is affirmatively shown, the presumption shall be that such record was made, and such certificate, statement, affidavit, paper or return was duly made and filed. Where any statement, certificate, or record is required to be made or signed by a school district board or a township board, such statement, certificate or record may be made and signed by the members of such boards, or a majority thereof, and it shall not be necessary that other members be present when each signs the same. The provisions of this section shall not be construed to authorize any showing impeaching the validity of any deed executed by the Auditor General under the provisions of this act, but such deed shall be held absolute and conclusive as herein provided.

Irregularities not prejudicial to property rights of owner shall not invalidate tax.

Records, etc., evidence.

Absence or omission of records, etc.

Regularity presumed.

Signing of records, etc.

Auditor General's deed unimpeachable.

Curative statutes can never cure want of jurisdiction.—*Hart v. Henderson*, 17 M. 222; *Township of Caledonia v. Rose*, 94 M. 216. But only provides that irregularities or omissions which are not jurisdictional and do not prejudice the property owner will not void tax or sale.—*Auditor General v. Keweenaw Ass'n*, 107 M. 405. Irregularities that do not avoid sales.—See notes and cases at 9129 C. L. '97.

No act legalizing any tax or assessment or any tax or assessment roll shall

be construed as legalizing any defect not distinctly set forth in the act.—3985 C. L. '97. Section does not relieve against defects which go to the jurisdiction of the body authorizing the levy.—Auditor General v. D. S. S. & A. Railway Co., 116 M. 122.

REVIEW: When no changes have been made by the board of review in the assessment roll prepared by the supervisor the roll is not rendered invalid because the board of review have not written the figures of the assessor in the columns prepared for that purpose.—Ball v. Ridge Copper Co., 118 M. 7. Where there is no claim that a board of review acted fraudulently in assessing land and there is sufficient testimony to support the finding of the lower court that the board did not act illegally or inequitably in fixing such assessment, the finding will not be disturbed.—Aurora Iron Mining Co. v. City of Ironwood, 119 M. 325.

While the board of review has no right to change values after the time provided by law, yet in the absence of proof that the board actually acted on question of value after the lawful time, the mere fact that the clerical work of setting down such values in the proper column was not completed during a meeting of the board will not render the tax invalid.—The date of the certificate of the board of review attached to the roll is not important as bearing upon the question of the validity of the taxes.—Auditor General v. Ayer, 122 M. 136.

The failure of the board of review to keep a record of its proceedings as required by Section 3856 C. L. 1897, does not render tax spread on roll invalid as against one who has suffered no injury by such omission. Cured by Section 99.—Auditor General v. Buckeye Iron Co., 9 D. L. N. 706.

APPORTIONMENT: Where charter requires council to apportion tax among wards and council instructed supervisors with assistance of recorder to make apportionment, held that to invalidate it must be shown that injury resulted to the person assessed.—Fay v. Wood, 65 M. 390. Form of record of apportionment is sufficient if it appears that just share is distributed among townships.—Boyce v. Sebring, 66 M. 210. Omission of signature of chairman and clerk to record of proceedings may be supplied by them during their term of office.—Record of proceedings of board of supervisors which does not specifically show apportionment of State tax in record of report thereon is sufficient if defect is supplied by the report as a whole.—Resolution "that there be levied on the taxable property of county for county purposes a tax of 14 per cent on the valuation of the several rolls of said county, making a total county tax of \$— (amount given)," does not affect validity of tax where it does not appear that this was the only action or record on the subject, though the sufficiency is questionable.—Boyce v. Auditor General, 90 M. 314. Resolution providing that a specified amount of State and county tax should be assessed on rolls of the several townships, naming them and placing opposite the name of each the amount to be assessed and giving total of said taxes respectively, was sufficient compliance with the statute, it not being shown that the apportionment was unequal.—Hoffman v. Lynburn, 104 M. 494.

EQUALIZATION: Committee to equalize the assessment rolls reported to board: report adopted. Held, action of committee that of board and was sufficient.—Tabulated record of assessment in all townships, showing amount added to or deducted from in equalizing, followed by aggregate of both real and personal property plus amount added or minus amount deducted, followed by final totals, held sufficiently definite.—Boyce v. Sebring, 66 M. 210. Where record of equalization shows only entry of the aggregate valuation of real and personal property of each township as determined by the board, the presumption is that no additions or deductions were found necessary or made.—Chamberlain v. City of St. Ignace, 92 M. 332; Goudreau v. City of St. Ignace; Brooks v. same; Orth v. same, 97 M. 413. Failure of clerk of board of supervisors to sign record of equalization and apportionment will not affect validity of township and school taxes.—Clerk of county and of board when record of equalization was made was deputy county clerk at time of trial, and rights of third parties had not intervened; Held proper to permit to amend the record by affixing the omitted signature.—Sheldon v. Marlon, 101 M. 256. Where record of equalization shows aggregate real estate as assessed in each township and amount of personalty and whole amount of taxable property as equalized, and nothing to indicate that equalization was based on aggregate of real and personal or that it was not based on the realty alone, it will be presumed that it was based solely on the realty.—Where record shows amount of real estate assessed, amount of assessed personalty and the amount of taxable property as equalized, and the amount added to or deducted can be readily ascertained by computation, held sufficient compliance with the statute.—Auditor General v. Ayer, 109 M. 694. Where supervisors add to or deduct from valuation of real estate without reference to total taxable property, held sufficient.—Auditor General v. Longyear, 110 M. 223. Where record of equalization shows total valuation of property as assessed and total as equalized, the fact that valuation of personal property and real property are not separately entered will not destroy the presumption that additions or deductions were upon real property; and absence of dollar sign in record does not invalidate where the figures are separated in such manner as to indicate dollars and cents.—Auditor General v. Sparrow, 116 M. 574. The record failing to show that board of supervisors changed values, the fact that it did not show the additions and deductions made in equalizing does not make the record insufficient.—Auditor General v. Ayer, 122 M. 136.

ROLL AND WARRANT: Special tax placed in separate column on tax roll does not entitle any one to complain, as no rights could possibly be prejudiced thereby.—Wall v. Trumbull, 16 M. 228. Objection that there is no dollar mark opposite the valuation and that the figures are so written as to be divided by a red line so as to leave an uncertainty as to the amount is not well taken where the amount of the taxes are properly carried out.—First National Bank

of *St. Joseph v. Township of St. Joseph*, 46 M. 526. See also *Bird v. Perkins*, 33 M. 28. The fact that headings of pages of tax roll were not filled out with name of township and county does not invalidate roll where names of township and county were printed on outside of book.—*Auditor General v. Keweenaw Ass'n*, 107 M. 405. Tax roll not invalidated by fact that supervisor's warrant directs the payment of the 1 per cent which he is authorized to add to avoid fractions to reimburse a delinquency of the former year growing out of an error in not adding a sufficient amount of percentage.—*Grand Rapids v. Wellman*, 85 M. 234. The fact that the collector used the original tax roll instead of a copy as the Muskegon charter required, and that the treasurer failed to verify his statement of uncollected taxes within the time specified, does not defeat the taxes in the absence of any showing that they were unjust.—*Auditor General v. Hutchinson*, 113 M. 245. Failure of assessing officer to prepare assessment and tax roll in exact form prescribed by statute, in that taxes were spread on tax roll instead of on assessment roll, did not prejudice property rights of taxpayers, and defect is cured by Sec. 99.—*Ludington v. City of Escanaba*, 115 M. 288. The fact that no warrant was attached to tax roll by supervisor held not to render the taxes invalid or discharge the lien.—*Auditor General v. Sparrow*, 116 M. 574. Warrant not defective if made to township treasurer by title and name omitted.—*Loud & Sons Lumber Co. v. Hagar*, 118 M. 452.

Where tax roll showed error in aggregate of taxes opposite certain parcel, which county treasurer corrected before sale, held that as this could not injure the owner it must be disregarded.—*Case v. Dean*, 16 M. 12. But this holding should not be understood as giving county treasurer authority to make changes in the roll or Tax Record.

Where tax roll described land as "T. 6, R. 6" and there was but one T. 6, R. 6 in the township, description held sufficient.—*Dumny v. Auditor General*, 123 M. 354. In *West Michigan Lumber Co. v. Dean*, 73 M. 459, supervisor attached warrant to original equalized assessment roll and delivered it to the treasurer. Held, that it conferred authority to seize property to satisfy tax.

STATUTORY TIME—RETURNS: The proceedings required by law and the giving of the treasurer's bond having taken place after the time designated by law, but before the time required for the handing over of the assessment roll; Held, that the delay was immaterial. Delay beyond the time required by law in appending the warrant to the assessment roll furnishes no ground of relief.—*Hubbard v. Winsor*, 15 M. 146.

Statutory time for doing an act is directory where time is not fixed for purpose of giving a party a hearing or for some purpose important to him.—*Fay v. Wood*, 65 M. 390. A tax title is not invalidated merely by the township treasurer's neglect to file his bond as collector of State and county taxes within the prescribed time, if it appears that he actually filed his bond and received the tax roll, and that his right to it had not been contested.—A tax title is not invalid merely because the original return from the township treasurer to the county treasurer had been sent to the capitol instead of being retained in the county treasurer's office as it should have been.—*Stockle v. Silsbee*, 41 M. 615. Where the township treasurer's return does not show that demand was made for taxes but is in statutory form, held sufficient, as if personal demand was necessary it must be presumed to have been made.—*Dickson v. Reynolds*, 48 M. 159. Failure of county treasurer to enter delinquent list on books does not invalidate the tax if the delinquent list was put in permanent form and preserved in county treasurer's office.—*Auditor General v. Keweenaw Ass'n*, 107 M. 405. Failure of collector to make statement under oath of all moneys received by him as collector does not render proceedings to sell void: such oath is required to secure an accurate accounting of all moneys in collector's hands and has no reference to the return of land for delinquent taxes.—*Tweed v. Metcalf*, 4 M. 579. Failure to make such statement does not prejudice taxpayer.—*Boyce v. Stevens*, 86 M. 549.

IRREGULARITIES: An irregularity is such a defect in legal proceedings as may be waived; a nullity is one that cannot.—*Jenness v. Lapeer Circuit Judge*, 42 M. 469. A blunder that is so evident as to correct itself not entitled to consideration.—*Smith v. Lloyd*, 29 M. 381. Objection based on manifest clerical error which corrects itself held frivolous; justice ought not to stumble at straws.—*Peck v. Houghtaling*, 35 M. 126. One cannot complain of an error in his favor.—*Kelso v. Saxton*, 40 M. 666. The party alleging error must show error to his prejudice.—*Louden v. E. Saginaw*, 41 M. 18. Error will not be presumed; it must be affirmatively made out.—*People v. Scott*, 56 M. 154. Irregularities in assessment when not prejudicial to protestant give no right of recovery.—*White v. Millbrook*, 60 M. 532. The time has gone by if ever was when the proceedings of taxing officers are to be criticized with microscopic nicety and the exact time and method of every step examined to detect a departure from the law, however insignificant or unintentional. It is probable that in no tax case have all the proceedings been exactly and punctiliously correct, but they are sufficiently so for legal purposes in any case if no error is committed which can prejudice the person taxed.—*Stockle v. Silsbee*, 41 M. 615. In matter of description see *Johnstone v. Scott*, 11 M. 232; *Wright v. Dunham*, 13 M. 414; *Bird v. Perkins*, 33 M. 28; *Wilt v. Cutler*, 38 M. 189.

Irregularities in assessment do not defeat a tax if they do not prejudice the person taxed.—*Stockle v. Silsbee*, 41 M. 615. Irregularities in the prior proceedings which do not prejudice the property rights of the person whose land is taxed will not defeat the claim of the State. Thus, it is no defense to an entry of a decree against the land that no warrant was annexed to the tax roll delivered to the collecting officer; that the return of the delinquent taxes was not verified; or that a majority of the board of review did not sign the certificate attached to the assessment roll.—*Auditor General v. Sparrow*, 116 M. 574. Any irregularity or omission in the proceedings to levy or collect a tax

which is not jurisdictional and does not prejudice the rights of the property owner will not render the tax invalid. It not being shown that the respondent had any personal property in the township, its rights were not prejudiced by omission of word "unknown" in assessment roll.—*Auditor General v. Keweenaw Ass'n*, 107 M. 405.

Under Tax Law No. 99 (Public Acts of 1893, p. 399) which provides that no sale shall be held invalid on account of any irregularity in any proceeding that does not prejudice the right of the person whose property is taxed, failure to attach a certified copy of the decree to the Tax Record does not invalidate a tax sale made pursuant thereto by the Auditor General.—*Gates v. Johnson*, 121 M. 663.

Tax for grading and paving was not paid and property was bid in by the city. After lapse of years abutting owners who knew of improvements cannot set up any irregularity in return of roll to common council by assessor.—*Tuller v. City of Detroit*, 126 M. 605.

MISNOMER: It does not mislead real owner.—*Fletcher v. Post*, 104 M. 424. Tax not invalid because assessed in name of other than owner.—*Auditor General v. Keweenaw Ass'n*, 107 M. 405. Also *Menominee v. Martin Lbr. Co.*, 119 M. 201; *Iron Star Co. v. Wehse*, 117 M. 487. Assessment against "Ellen Marcier" instead of "Ellen Macier" held within the rule of idem sonans and not to invalidate the tax.—*City of Detroit v. Macier*, 117 M. 78. Land assessed to "H. M. Loud & Sons" instead of proper name of corporation; Held, would not render tax invalid and would authorize levy on personal property of corporation.—*Loud & Sons Lumber Co. v. Hagar*, 118 M. 452. Tax assessed by initials of corporate title to resident corporation who owned and occupied the property is not invalid because not assessed to full name.—*Lumber Co. v. Village of Oscoda*, 97 M. 221.

RECORDS, FILES, ETC.: Auditor General may require copies gratis.—11238 C. L. '97. Records are public property; penalty for mutilation or wrongfully retaining.—11361 C. L. '97. Restoration of lost records.—10276 e. s. C. L. '97. Absence of records in town books showing assessors were sworn does not furnish prima facie evidence that they were not.—*Sibley v. Smith*, 2 M. 486. Objected to record of proceedings of supervisors that it did not show who constituted the board nor that a quorum was present; Held, presence of supervisors or at least a quorum would be presumed.—*Lacy v. Davis*, 4 M. 140. Certificates to assessment roll are necessary only because they are required by statute; and the legislature may provide in express terms that a tax sale shall not be void for defect in or omission of the certificate. Whatever it may dispense with in advance it may retrospectively.—*Sinclair v. Learned*, 51 M. 335. See also *Burt v. Auditor General*, 39 M. 126. Where a sum of money has been lawfully voted to be raised by taxation for township purposes, the failure of the board of supervisors to direct the levy would not invalidate the action of the supervisor in spreading it upon the roll.—*Upton v. Kennedy*, 36 M. 215. The real purport and effect of the statute is that sale shall not be void because return or other files or records are not found in the proper place, unless it is shown that such files or records never existed.—*Upton v. Kennedy*, 36 M. 215. The absence of official records from the places assigned by law for their keeping does not support the presumption that they never existed; the contrary is presumed.—*Hogelskamp v. Weeks*, 37 M. 422. As to time of making clerk's certificate to supervisors; when conclusive, etc.—*Smith v. Crittenden*, 16 M. 152. Where tax ordered by board of supervisors is not certified to by township clerk, burden is upon contestant to show that such tax was not originally authorized by competent authority.—*Auditor General v. McArthur*, 87 M. 457. "No tax or tax sale shall be held invalid" does not apply to warrant or to anything else except "tax" and "sale."—*Muskegon v. Martin Lumber Co.*, 86 M. 625. Does not apply to proof of publication.—*Benedict v. Auditor General*, 104 M. 269. Record of equalization not invalid because of omission of dollar mark.—*Auditor General v. Sparrow*, 116 M. 574. A tax deed given upon a sale which included township and school taxes is not rendered invalid by showing that the board of supervisors did not direct any taxes for township or school purposes to be assessed in the township for that year.—*Robbins v. Barron*, 33 M. 124.

Writings are not admissible in evidence as public records without proof of their official character.—*Hall v. People*, 21 M. 456. Whenever the law requires written evidence of the action taken by officers in tax proceedings the record becomes the only legal and proper evidence of these facts; but this does not exclude entirely the usual presumption in favor of the regularity and honesty of official action.—*Mills v. Township of Richland*, 72 M. 100.

Tax sale not void because decree was not entered in record book of decrees and did not contain a description of the property.—*Hooker v. Bond*, 118 M. 255. Clerk's omission to record it does not invalidate a decree properly signed.—*Hoffman v. Pack, Woods & Co.*, 123 M. 74.

The loss of papers relating to the proceedings on the Auditor General's petition will not in a collateral proceeding defeat the jurisdiction of the court or render void the decree.—*Hoffman v. Pack, Woods & Co.*, 123 M. 74. Testimony of county treasurer and clerk, together with the record of accounts between those officials that contain items which must have been taken from the report, held sufficient to show that report of sale was filed.—*Ibid*.

Whenever, in the opinion of the board of supervisors of any county in this State, from the defaced or mutilated condition of any assessment rolls, returns of township treasurers, or other papers on file, under the provisions of law, in the office of the treasurer of such county, and for their better preservation, it shall be necessary that the same be copied or bound, or both, it shall be lawful and shall be the duty of such board of supervisors to authorize and order the copying or binding, or both, of such archives.—2508 C. L. '97. Whenever the board of supervisors of any county shall order the copying of any rolls or other papers, as provided in section one of this act, the treasurer of such county shall

have the supervision of such work, and shall employ some proper person or persons to perform the same, who shall, before entering upon the discharge of such duty, subscribe an oath to perform the same in a true and faithful manner; and it shall be the duty of such county treasurer to compare all rolls or papers so copied, with the originals, and shall attach to each separate copy, roll or other paper, his certificate that the same is a true copy of the original roll or other paper, and that such copy was made by a person duly authorized under the provisions of law to make the same.—2509 C. L. '97. Any copy of any assessment roll, tax roll, township treasurer's return, or other paper, made and certified under the provisions of this act, shall be valid and lawful as evidence in any court as the original would have been.—2510 C. L. '97.

Sec. 100. (3923) It shall be the duty of the prosecuting attorney of each county to give his counsel and advice to the county treasurer, the township treasurers, and the supervisors of the county whenever they or any of them may deem it necessary for the proper discharge of the duties imposed upon them in this act free of charge.

Duties of prosecuting attorney.

See Sec. 90.

Sec. 101. (3924) In all cases of sale of lands for taxes, if the purchaser or his assigns shall die before a deed shall be executed on such sale, the deed may be executed by the Auditor General, to and in the name of the deceased person, if such deceased person being still alive would be entitled to a deed, which deed shall vest the title in the heirs or devisees of such deceased person, in the same manner, liable to like claims of creditors and other persons as if the same had been executed to said deceased person immediately previous to his death, or the executor or administrator may assign the certificate of purchase and the deed may issue to the assignee thereof, and in like cases which have heretofore occurred, the same rule shall apply, and all deeds heretofore issued in the name of any person deceased who, if living at the time of the execution thereof, would have been entitled thereto, shall have like effect as above provided.

Deed to deceased person, etc.

Sec. 102. (3925) Am. Act 262 of 1899. The county treasurer shall, at the same time when he makes his return of delinquent lands to the Auditor General, make a similar return to the Commissioner of the State Land Office of all homestead and part paid State lands. the fee of which is in the State, the taxes upon which have not been collected, with a statement of the amount thereof. The Commissioner of the State Land Office shall provide suitable books, and enter in the same the description of every parcel of land so returned to his office, and the taxes thereon. The person holding such interest in any parcel of said lands shall, on or before the first day of July following such return, pay to the State Treasurer the taxes assessed thereon, with interest at the rate of one per cent per month or fraction thereof from the first day of March last preceding; and in default thereof the certificate of purchase of such parcel shall become void and such land shall be subject to sale and redemption in the same time and manner as lands forfeited for non-payment of interest; and no patent shall be made of such lands until all taxes thereon are paid.

Return of delinquent tax on homestead and part paid state lands.

Forfeiture for non-payment.

Sec. 103. (3926) The Commissioner of the State Land Office shall, on or before the first day of May and November in

Report of taxes paid on state lands.

Credit of
taxes.

Lien for im-
provements.

each year, make out and furnish to the Auditor General a statement containing a description of the lands upon which the taxes have been paid, and the amount of such payments, and shall, at the same time, transmit to each county treasurer a copy of such statement so far as the same relates to his county. The Auditor General shall credit to each county its proper part of such taxes, and the county treasurer shall credit each township with its share of such amount.

SEC. 104. (3927) If any person dispossessed of lands purchased in pursuance of the provisions of this act shall have made improvements thereon, he shall be entitled to recover what such improvements are worth, and shall have a lien on such lands therefor and may enforce the same by bill in equity where no other provision is made by law.

Sec. 10995 C. L. '97 relative to compensation for improvements in action of ejectment applies only to lands described in plaintiff's declaration and in the deeds or other instruments through which the defendant claims.—*King v. Potter*, 18 M. 134. County treasurer became purchaser at sale conducted by him purchase held to be a nullity and purchaser not entitled to improvements made by him.—*Clute v. Barron*, 2 M. 192. Lien for improvements is to be enforced in supplementary proceeding in chancery.—*Weimer v. Porter*, 42 M. 569. Evidence of the value of improvements is properly excluded in action of ejectment where defendant neglects to file a claim for compensation therefor under 10996 C. L. '97.—*Newaygo Mfg. Co. v. Echlinaw*, 81 M. 416.

Wanton expenditures for improvements not made in good faith.—*McCredie v. Buxton*, 31 M. 383. Plaintiff having gone upon the land and made improvements with the knowledge that the title to the land was in the railway company, and that it claimed ownership, could not upon failure of his title recover the value of the improvements made.—When the rightful owner has obtained possession of the property without resorting to an action at law he is not liable in an action at law for the value of the improvements made by another. Sec. 10995 C. L. '97 applies only to action of ejectment.—*Lemerand v. F. & P. M. R. R. Co.*, 117 M. 309.

Statutes allowing compensation for improvements when defendant in ejectment has been in possession, etc., cannot be invoked in behalf of one who entered as a tenant.—*Wolf v. Houghton*, 92 M. 136. The fact that the occupant by exercising diligence might have discovered that he had no title does not necessarily negative good faith.—*Petit v. F. & P. M. R. R. Co.*, 119 M. 492.

To enable defunct holder of tax title to enforce a lien for improvements the title must have been adjudged against him in a proper action. He must then resort to equity proceedings to have the amount of his lien determined, and its collection enforced. Statute of limitations does not run against such lien before the judgment is rendered declaring the title invalid. Such right is not affected by subsequent tax laws.—*Tillotson v. Circuit Judge*, 97 M. 585. One taking possession under tax deed in good faith and making improvements may recover for such improvements if his title prove invalid.—*Croskery v. Busch*, 116 M. 288. Provision as to improvements applies to homesteaders holding under Sec. 131.—*Conn. M. L. Ins. Co. v. Wood*, 115 M. 444. Further as to recovery for improvements see *Rawson v. Parsons*, 6 M. 401; *King v. Potter*, 18 M. 134; *VanDenBrooks v. Correon*, 48 M. 283; *Gullid v. Kidd*, 48 M. 307; *Baldwin v. Culien*, 51 M. 33; *Clark v. Green*, 62 M. 355.

This section has no application to one who enters in violation of Section 142.—*Corrigan v. Auditor General*, 125 M. 125.

Under 3 C. L. 1897 (Sec. 10995) permitting a defendant ousted in ejectment to recover for improvements, provided he shall have been in actual occupancy for six years before the commencement of the action, the occupancy contemplated is such as would give title by adverse possession; hence where a part of the period of defendant's occupancy was during the life of the life tenant, he was not entitled to recover for improvements against other remainder-men who were defendant's co-tenants.—*Sleight v. Roe*, 125 M. 585.

Reorganiza-
tion of
counties and
townships.

SEC. 105. (3928) In case of the organization of a new county after the time for making the assessment roll, and prior to the return of the township treasurer, such new organization shall in now way affect the assessment, collection or return of taxes for that year on any lands attached to the new county. No division of a township after the time for making the assessment roll, and prior to the return of the township treasurer, shall in any way affect the assessment, collection and return of such taxes; but such taxes shall be assessed, collected and

returns made as though there had been no such division. If lands are detached from any county after the taxes thereon are returned to the Auditor General, and any such taxes are afterwards rejected or set aside, the county from which they were detached shall receive credit, and the county to which they are attached shall be charged, as may be proper under the provisions of this act.

Board of supervisors have no power to alter boundaries of townships when fixed by legislature.—Township of Harrison v Board of Supervisors, 117 M. 215. As to new townships.—Comins v. Harrisville, 45 M. 442. Assessment to pay interest on bonds after division of township.—First National Bank v. Supervisors, Mich. Mandamus Cases 1346.

As to organization of new counties see Carleton v. People, 10 M. 250; Bay County v. Bullock, 51 M. 544; Attorney General v. Marr, 55 M. 445; Attorney General v. Welmer, 59 M. 580. As to adjustment of tax accounts between new and old counties see Clare County v. Auditor General, 41 M. 182; Bay County Supervisors v. Arenac Supervisors, 111 M. 105.

Adjustment of rights and liabilities on division of municipal territory.—3462 C. L. '97.

SEC. 106. Am. Act 154 of 1895. (3929) The taxes on any lands returned as delinquent may be paid to the county treasurer or to the State Treasurer at any time prior to the day of sale. After such petition is filed with the county clerk, payment of part of the taxes therein specified shall not stay proceedings thereon to enforce payment of such part of such taxes as are not paid, but such proceedings shall continue as to all unpaid taxes as herein provided.

Payment before sale.

Part payment does not stay proceedings.

Payment of taxes to State Treasurer is made through Auditor General. This section does not apply to taxes for years where sales are canceled.—Schulte v. Auditor General, 9 D. L. N. 486. See Secs. 53, 59, 138.

SEC. 107. (3930) This act shall be applicable to all cities and villages where not inconsistent with their respective charters. With such exceptions, the provisions herein as to supervisors, township treasurers, and boards of review, shall include all assessing and collecting officers, and all boards whose duty it is to review any assessment roll. The word township may include city, ward or village. When, by the charter or ordinances of any city or village, delinquent taxes or assessments are returned with other taxes to the county treasurer, such city or village shall not be entitled to payment of or credit for the same until the money has been received, notwithstanding anything in their respective charters to the contrary: *Provided*, That in any incorporated city, the charter of which does not provide for a board of review, such board shall consist of the several supervisors or other officers making the assessment, the city attorney, and additional members to be appointed by the common council, who shall not be aldermen, equaling the number of supervisors or assessing officers. The session of said board of review shall be held at the council room on the same days as designated in this act for the meeting of the township board of review, and the proceedings thereof conducted, as near as may be, in the same manner. Said board shall elect a chairman and clerk, who shall certify to the correctness of the several assessment rolls when completed, sub-

Municipal charter provisions.

Municipalities included.

Board of review in cities.

Sessions and proceedings.

Certification of rolls.

stantially as the form prescribed in sections twenty-nine and thirty of this act. The appointed members of said board of review shall take the constitutional oath of office, which shall be filed in the office of the city recorder or clerk.

Oath of office.

Levy of municipal tax exceeding the aggregate amount limited by the charter for a single year is illegal and cannot be sustained.—*Wattles v. Lapeer*, 40 M. 624; *Connors v. Detroit*, 41 M. 126. Charter limitation of amount "raised by taxation" includes excess voted by freeholders.—*Schneewind v. Niles*, 103 M. 301. But judgment against municipalities should be assessed though such assessment would make total exceed charter limit.—*Hammond v. Place*, 116 M. 628. Tax to pay interest on city bonds to take stock in water supply company.—8516 C. L. '97. As to assessment to pay judgment against city see *Shippey v. Mason*, 90 M. 45. A city tax voted without observing the charter requirements to enter at large upon the minutes of the council any act, proceeding, etc., is invalid.—*Pontiac v. Axford*, 49 M. 69. Where charter requires common council to determine by resolution the amount to be raised for contingent fund and also for interest fund, and council directed a gross sum for both, held that failure to observe charter requirements rendered tax void.—*Fay v. Wood*, 65 M. 390. When the mode of assessments is prescribed by the charter or by ordinances adopted under its authority, measure of power is limited thereby.—*Whitney v. Village of Hudson*, 69 M. 189.

Where the charter provides for apportionment of school taxes by the county clerk after assessment, review and certificate of city clerk, action is not dependent upon equalization by the board of supervisors.—*Chamberlain v. City of St. Ignace*, 92 M. 332.

Mandamus will not lie to compel the officers and common council of a city to pay a judgment out of moneys on hand when such moneys were raised and are required for other purposes; the creditor's remedy being under the statute requiring such judgment to be spread upon the tax roll.—*Griewold v. Common Council of Ludington*, 117 M. 317. Assessment in cities and villages for fire department.—3477 C. L. '97. As to limitation of municipal taxation see *Arbuckle, Ryan & Co. v. City of Grand Lodge*, 122 M. 491.

REVIEW: In *Darmstetter v. Moloney*, 45 M. 621, under Detroit charter requiring assessor's certificate to assessment roll, it was held where assessor is the officer to present the roll to the board of review and is himself a member of the board, the roll does not need to be authenticated by his certificate. A city charter having provided for a board of review which has final jurisdiction of appeals of assessment of city taxes, the question whether the assessment is excessive is not for the court to try.—*Williams v. Saginaw*, 51 M. 120. Where by law taxpayers have the right to present their claims for reduction of taxation or valuation in writing and to make their proofs in support of such claim by affidavit, the board of review have no power to refuse to consider such claim unless the claimants appear in person and submit to oral examination.—*McMoran v. Wright*, 74 M. 356. Where charter provides that board of review during certain sessions may change values and that after that time, it shall not increase any assessment, an increase after the period will void the assessment and the taxes levied thereunder.—*Auditor General v. Sessions*, 100 M. 343. In *Avery v. E. Saginaw*, 44 M. 587, it was held that the city board of review cannot increase an assessment without notice to the party assessed and giving him opportunity to be heard. But the provisions of the charter of any other city might vary this decision in a similar case.

A sewer assessment will not be set aside on the ground that the construction of the sewer was not embraced within a report at the suit of one who did not avail himself of the right to be heard thereon before common council which by the charter was constituted a board of review with power to correct, set aside or confirm the assessment.—*Nelson v. Saginaw*, 106 M. 659.

As to discretion of common council to levy taxes for city purposes, see *Water Commissioner v. Common Council of E. Saginaw*, 33 M. 164. Collection of general tax for proper city or village purposes will not be restrained on the ground that it was rendered necessary by improper use of funds.—*Clee v. Village of Trenton*, 108 M. 293. Further as to municipal taxation see *Mitchell v. Negaunee*, 113 M. 359; *Pioneer Iron Co. v. Negaunee*, 116 M. 480; *People v. Mahaney*, 13 M. 495.

SYNOPSIS OF TAX PROVISIONS OF ACT 8 OF 1895 PROVIDING FOR INCORPORATION OF VILLAGES: 2684-2955 C. L. '97. All villages subject to provisions of act.—2684, 2941. Election of treasurer and assessor.—2689. Clerk to report amount of taxes to be raised to treasurer.—2732. Duties of treasurer.—2735 e. s. Assessor shall perform such duties in relation to assessing property and levying village taxes as are prescribed by act.—2746. Imposition of tax or assessment requires two-thirds vote of trustees elect.—2752. Assessment for sidewalks.—2778: for street improvement.—2780: for grading.—2784: for paving, bridges and culverts.—2786-7: for sewers, drains and watercourses.—2793-2801. Abatement of nuisance to be assessed against premises.—2818. Assessment for cemeteries.—2824. Public improvements—board of assessors—special assessments.—2831-51: Act 39 of 1899. General corporation taxes: Purposes and limit.—2852-8: assessment.—2859: review.—2860-3: certification by council.—2864: apportionment and collection.—2865-8: return of delinquent real property.—2869: sale and redemption.—2870: suit for personal taxes.—2871: voting additional expenditures.—2874: appropriation of private property.—assessment for benefits.—2929: enforcing special assessments.—2945. Village charters will not be so construed as to change the operation of the general taxing laws unless such intent is plainly expressed.—*Howell v. Cassopolis*, 35 M. 471. Further as to

village taxes see *Boyce v. Peterson*, 84 M. 490; *Common Council v. Smith*, 99 M. 507.

Provision of general tax law making it applicable to villages, etc., cannot be invoked to validate illegal action of village assessor which is governed by charter.—*Common Council v. Smith*, 99 M. 507.

See Secs. 29-31.

SEC. 108. Am. Act 206 of 1897. (3931) The authorities of any city or village, the charter of which does not so provide, may provide by ordinance for the return of all unpaid taxes on real property to the county treasurer in the same manner and with like effect, as returns by township treasurers. The taxes thus returned shall be collected in the same manner as other taxes returned, as provided in this act. The authorities of any city or village which, by its charter, has the right to sell lands for unpaid taxes or assessments, may provide for judicial sale of such lands. Such sale shall be made on petition filed in behalf of the city or village in interest, and shall conform, as near as practicable, to the provisions as to sale in this act: *Provided*, That whenever any lands are offered at such sale that have been bid to the State at any tax sale made under the provisions of any general tax law, and upon which such bid or bids remain undischarged, any sale made of such lands at the city tax sale shall be conditioned upon the payment of the tax lien held by the State on said land, and the sale so made shall be void if the tax lien held by the State shall remain unsatisfied.

Return of city and village taxes.

Collection thereof.

Judicial sale.

State bids protected.

The provisions of a city charter required that when a petition shall be presented the council shall determine by resolution the necessity of paving and repaving streets when the improvements are to the extent that a special assessment may be made. Held: (1) That the charter does not deny authority to the council to levy and collect special assessments except when made on petition (2) That the petition may be general in its terms, and requires no specified number of signatures. A requirement of a city charter that the council shall review a special assessment roll and consider the objections, and when satisfied with the same confirm it by resolution, does not require any stated method of procedure, and the fact that a resolution confirming the roll was adopted will be sufficient.—*Auditor General v. Hoffman*, 129 M. 541.

SEC. 109. (3932) When an officer is authorized to do any act his deputy shall have the same authority, and such officer shall be responsible for the acts of his deputy.

Acts of deputies.

Deputy Auditor General.—98 C. L. '97. Deputy county treasurer.—2536 C. L. '97. Deputy county clerk.—2572 C. L. '97. Deputy township treasurer, see Sec. 111. Deputy township clerk.—2342 C. L. '97.

SEC. 110. (3933) Supervisors shall be allowed for their services in assessing property, making tax rolls, and for extending taxes thereon, at the rate of two dollars for each day actually and necessarily spent in making the same; the members of the board of review shall be paid at the same rate per day for each day actually and necessarily spent in the attendance upon the board; the accounts for such services shall be verified, audited and paid as other township expenses. County officers shall be paid for services under this act by salary or otherwise as the board of supervisors shall determine: *Provided*, That all cities in this State shall be exempted from the provisions of this section, and the common council shall have power to fix and determine the compensation of the city as-

Compensation of county and township officers.

Proviso as to certain cities.

essor and of his assistants and of the boards of review, boards of estimates, and all other like officers.

County clerk whose salary is fixed at a specified amount is not entitled to additional compensation for services contemplated by act.—*Gardner v. Newaygo Co. Supervisors*, 110 M. 94. Necessary disbursements in pursuance of his duties are proper charges.—*Ibid*.
See Sec. 90.

Deputy township treasurer.

SEC. 111. Am. Act 214 of 1897. (3934) Any township treasurer with the consent of his bondsmen, which consent shall be in writing and shall be filed with the clerk of the township, may appoint a deputy who shall possess all the powers and may perform all the duties of the treasurer. Such township treasurer and his bondsmen shall be liable for all the acts and defaults of such deputy treasurer. Such deputy shall be paid by the treasurer.

Tax payments unaccounted for.

SEC. 112. (3935) If at any time it shall be discovered that the treasurer of any township has received the tax assessed upon property which has been returned delinquent, the supervisor shall have power and he is hereby required to collect the same, in the name of his township, from such treasurer or his sureties, together with interest and charges.

Removal of timber from lands bid to state.

SEC. 113. Am. Act 154 of 1895. (3936) It shall be unlawful for any person to cut or remove any logs, wood or timber from any lands sold and bid in by the State of Michigan, for the non-payment of taxes, while the State remains the owner of such lands or the holder of any tax lien thereon by virtue of such sale, and if any person shall cut, or remove such logs, wood, or timber from such lands during the time aforesaid, the Auditor General or his deputy shall issue a warrant under his hand, in the name of the people of the State of Michigan, directed to the sheriff of the county where such lands are situated, giving therein a description of such lands, the amount of such taxes with interest and charges thereon, then remaining unpaid, commanding such sheriff forthwith to seize such logs, wood, or timber, wherever the same may be found in any county in this State, and to sell the same, or a sufficient quantity thereof, to satisfy such taxes, with the interest and charges thereon and the cost of such seizure and sale. The sheriff shall receive such warrant and execute the same as therein directed, as in case of levy and sale on execution, and make return thereof with his doings thereon to the Auditor General, within sixty days after the receipt of the same, and pay over all money collected thereon to the State Treasurer. The Auditor General may furnish the State trespass agent with lists or plats of land bid in by the State and remaining unpaid, and the said trespass agent shall examine such lands and promptly report to the Auditor General all violations of the provisions of this section. The sheriff and county treasurer of each county are hereby directed to report all such trespass, prohibited by this section, to the Auditor General, immediately, whenever they shall have knowledge of the same,

Warrant of Auditor General for seizure, etc.

Duties of sheriff.

Return of doings.

Examination of lands by trespass agent.

Report of trespass.

and any county or township officer having knowledge of such trespass shall report the facts to the sheriff or county treasurer. Duty of county and township officers.

Commissioner of State Land Office authorized to adjust trespass.—1323 and 1893 C. L. '97. Prosecuting Attorney to report trespass to Commissioner State Land Office.—1398 C. L. '97. Penalty for trespass.—1394; 1896; 11204; 11584; 11587; 11648-9 C. L. '97. Trespass on public lands.—11153, 11749-51 C. L. '97. Removal of buildings, fences, etc., suit for.—9197 C. L. '97. Action for trespass.—11122-32; 11217 (See *St. John v. Antrim Iron Co.*, 122 M. 68); 11153; 9729; 11755 C. L. '97.

Statutory citations above include some which are applicable to lands purchased for taxes as well as those solely applicable to public lands.

Where one acting in good faith intentionally intermingles property of his own with that of another of equal value and quality he does not lose title to the whole, but each party will be given his due proportion of the whole.—*Keweenaw Association v. O'Neill*, 120 M. 270. As to the fraudulent admixture of logs, see *Stephenson v. Little*, 10 M. 433.

It is the general rule that a defendant owning the title to land cannot be found guilty of trespass for peaceably entering upon the same.—*Vetterly v. McNeal*, 129 M. 507.

Act 34, Laws of 1901, amends Act 223, 1889, providing for injunction to be issued to restrain waste on current taxes when they become a lien. See also Secs. 153, 156 and 157.

Act No. 210 of the Public Acts of 1903 provides for a penalty for removing from any State lands, logs, ties, wood, bark, poles, shingle bolts, shrubbery or any timber whatever, or the removal of any buildings, fences, improvements or other property.

Act 226 of the Laws of 1903, providing for the appointment of trespass agent, makes it the duty of such agent to watch all State lands, including the Tax Homestead and State Tax Lands.

SEC. 114. (3937) No injunction shall issue to stay proceedings for the assessment or collection of taxes under this act. No injunction to stay collection.

Legislature may prescribe remedy by injunction to restrain collection of taxes where it has provided complete remedy at law to recover taxes illegally assessed or collected.—*Eddy v. Township of Lee*, 73 M. 123; *Canal & Ry. Co. v. Auditor General*, 79 M. 351.

SEC. 115. (3938) The holder of any certificate of sale shall, at any time after its issue, have the right to an injunction to restrain waste on any of the lands described in such certificate where such lands are valuable for timber, and the circuit court in chancery of the county in which such lands are situated shall have jurisdiction to grant such relief on bill or petition, where no other relief is sought. Injunction to restrain waste.

A trespass to land which is of a continuing nature, the constant recurrence of which renders the remedy at law inadequate unless by multiplicity of suits, may be relieved against by injunction.—*Davies v. Township of Frankenlust*, 118 M. 494; *Hall v. Nester*, 122 M. 141.

In an action for waste purchaser must prove that the acts complained of were injurious to the freehold.—*Ward v. Carp River Iron Co.*, 47 M. 65. See further as to what constitutes waste.

See *Blackwood v. Van Vleet*, 11 M. 252.

SEC. 116. (3939) If any supervisor or other assessing officer of any township or city shall willfully assess any property at more or less than what he believes to be its true cash value, he shall be guilty of a misdemeanor, and on conviction thereof he shall be punished by imprisonment in the county jail not exceeding one year, or by fine not exceeding three hundred dollars, at the discretion of the court. If any board whose duty it is to review the assessment of an assessing officer shall willfully assess property at more or less than its cash value, the member voting in favor of such action shall severally be guilty of a misdemeanor and on conviction shall be punished by imprisonment in the county jail not exceeding six months, Willfully erroneous assessment.

Penalty.

Willfully erroneous review.

Penalty.

or by fine not exceeding three hundred dollars, at the discretion of the court.

Failure to record payment.

Penalty.

SEC. 117. (3940) If any officer to whom any tax is paid shall fail to make proper entry and return of such payment, he shall be liable to any person injured, for the full amount of the injury, and if such failure is willful he shall be deemed guilty of a misdemeanor, and shall, on conviction thereof, be punished by imprisonment in the county jail not more than six months or by fine not more than three hundred dollars.

See *People v. Bringard*, 39 M. 22.

Willful false swearing perjury.

Official neglect.

Penalty.

SEC. 118. (3941) Any person who, under any of the proceedings required or permitted by this act shall willfully swear falsely, shall be guilty of perjury and subject to its penalties.

SEC. 119. (3942) Any officer who shall willfully neglect, or refuse to perform any of the duties imposed upon him by this act shall, when no other provision is made herein, be guilty of a misdemeanor, and upon conviction thereof shall be punished by imprisonment in the county jail not exceeding six months, or by fine not exceeding three hundred dollars, in the discretion of the court, and shall be liable to any person injured thereby to the full extent of the injury sustained.

The last clause of this section places a personal liability upon the assessor in the event of any willful neglect or refusal to perform his duties, whenever such neglect or refusal shall occasion loss or injury to any person.

Report of stockholders of banks.

County clerk to notify supervisors.

Willful neglect by bank cashier.

Penalty

Willful misconduct by corporation officer.

Penalty.

SEC. 120. Am. Act 154 of 1895. (3943) The cashier of every bank, the capital of which is represented by shares of stock, shall, on the second Monday of April in each year, file in the office of the county clerk of the county where the bank is located, a list of the names of the stockholders, the amount of stock held by each on the day said report is made, and their respective residences. Immediately after the filing of such statement the county clerk shall notify the supervisor of each township of the name of each person, if any, residing in his township, holding shares of stock in any such bank, and of the amount thereof as shown by such statement. If the cashier of any bank shall willfully neglect or refuse to make and file in the office of the county clerk, a list of the names of stockholders, the amount of stock held by each, and their respective residences, as provided in this act, or shall willfully make and file any false entry in any such list, he shall be guilty of a misdemeanor, and upon conviction he shall be punished by fine not exceeding five hundred dollars or by imprisonment in the county jail not to exceed a period of six months, or by both such fine and imprisonment in the discretion of the court. If the president, secretary or chief accounting officer of any corporation, company or association, or any representative thereof, shall willfully neglect or refuse, or shall make and verify any false statement to any assessing officer, the intention or effect of which may be to escape taxation, such person shall be guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of not less than one hundred nor more than

five hundred dollars, or by imprisonment in the county jail not to exceed a period of six months, or by both such fine and imprisonment in the discretion of the court. And any person who shall willfully make and verify any such statement with the effect or intention to evade taxation, shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine not to exceed three hundred dollars, or by imprisonment in the county jail not to exceed a period of six months or by both such fine and imprisonment in the discretion of the court.

Evasion of
taxation.

Penalty

Report of stockholders.—See also 6104 C. L. '97.

SEC. 121. (3944) The Auditor General shall, from time to time, as he may deem necessary, cause to be printed at the expense of the State, a sufficient number of copies of this act, and such other laws in force relating to the taxation of property, as may be requisite to a full understanding of all the duties of assessing officer, or other State, county or township officers, with proper side notes, index and forms of proceedings, as may be necessary and proper; to furnish one copy to each supervisor, assessor, township clerk and county clerk, and three copies to each county treasurer. Each copy shall be marked "State property." He shall transmit to each county treasurer, at the expense of the county, a sufficient number of copies for each county, and every county treasurer shall immediately furnish to the township clerk of each township five copies, to be distributed by him to the officers entitled thereto. The Board of State Auditors shall examine and audit all properly certified claims for services rendered and expenses incurred under the provisions of sections 121, 127 and 128 of this act.

Auditor General to publish tax laws.

Distribution.

Board of State Auditors to audit certain claims.

Auditor General to draw up and cause to be published instructions for the government of officers concerned in the collection of the revenue; which shall be binding upon such officers.—95 C. L. '97; and shall publish and distribute all pamphlets of the general tax law or of all laws relating to the revenues of the State as may be required.—Sec. 2, Act 44 of 1899.

SEC. 122. (3945). It shall be the duty of the Auditor General to provide and furnish in due season to the several county clerks and treasurers, at the expense of the State, all forms, blanks and record books made necessary by this act.

Blanks, etc., furnished by Auditor General.

SEC. 123. (3946) In order to perfect the records of taxes in the office of the Auditor General, and for the other purposes of this act, it shall be the duty of each county treasurer, immediately after the passage of this act, to make a full and complete transcript and return of all lands returned as delinquent for taxes for the years one thousand eight hundred and ninety-one and one thousand eight hundred and ninety-two, not already made, and a full and complete transcript of all moneys received, sales made and recorded, and all other things had or done under the provisions of act number two hundred of the public acts of eighteen hundred and ninety-one, entitled "An act to provide for the assessment of property and the levy of taxes thereon and for the collection of taxes heretofore and hereafter levied, and to repeal act number one hundred and ninety-five of the session laws of one thousand eight hundred

Return of taxes of 1891 and 1892 to Auditor General.

Return of doings of county treasurers.

Record of returns.	and eighty-nine. except as provided in this act, and all other acts and parts of acts in anywise contravening any of the provisions of this act," approved July seventh, eighteen hundred and ninety-one. Upon the receipt of such transcripts and lists, the Auditor General shall cause them to be recorded in his office, in the proper books therefor, as such delinquent tax lands were by law or custom recorded prior to the passage of such act above mentioned. The Auditor General shall require of each of the county treasurers of this State, and such county treasurers are hereby directed to furnish on demand copies of all records, decrees, certificates, redemptions, sales, minutes and information to enable the Auditor General to perfect such tax records in his office. A like demand may be made on each of the county clerks in this State and shall in like manner be complied with by each of such clerks. Each county treasurer and county clerk shall receive such reasonable compensation for the extra services required by this section as may be allowed by the board of supervisors, to be paid out of the county treasury.
Copies of records, etc.	
Duties of county clerks.	
Supervisors to compensate treasurer and clerk.	
Duties of Auditor General.	SEC. 124. Am. Act 154 of 1895. (3947) From and after the passage of this act the Auditor General shall perform all the duties in relation to taxes levied, assessed, collected and returned delinquent, sold or to be sold as required by this act: <i>Provided</i> , It shall not be necessary for him to sell or order re-sold, advertise or readvertise, and revise or renew any act done by any officer or court under and by virtue of the said act heretofore mentioned in the preceding section, but all such proceedings and acts shall be recognized and held to be legal and valid under this act, subject, however, to the provisions of section 98 of this act. In all cases where deeds have been issued by county treasurers, any such deeds shall be valid and of such force and effect as if issued by the Auditor General, but the Auditor General may cancel any deed so made by any county treasurer, on the request of the holder thereof, and issue a new deed signed by the Auditor General or his deputy as in this act provided. And for all lands advertised and sold by any county treasurer under the authority granted in said act before mentioned, such advertisement and sale shall be held legal and valid, but all such proceedings and all proceedings necessary to be had hereafter in relation to such lands and taxes shall be had under the provisions of this act.
Not required to revise acts done under 1891 law.	
County treasurer's deeds valid. Cancellation and reissue of deeds.	
Sale under 1891 law valid.	
All future proceedings to be under this act.	

The action of the head of an executive department of the State is not judicial and therefore not subject to direct proceedings for review.—*Ambler v. Auditor General*, 38 M. 748.

Section validates deed executed by county treasurer under Act 200 of 1891 for lands assessed under law 1889, the title to which was in the State at the time of sale by county treasurer.—*Hoffman v. Pack, Woods Co.*, 123 M. 74.

Vested rights undisturbed.

SEC. 125. (3948) All rights which may have accrued to any person, as well as all rights which have accrued or become vested in any individual, corporation, municipality, or the State, under any of the heretofore existing tax laws of the State which have been amended, modified, changed or repealed, shall not be affected, changed or destroyed, but the same shall remain in force, subject to review and enforcement in the

courts of this State, and for the completion of all proceedings heretofore begun for the collection of taxes or the enforcement of all the requirements of such laws.

SEC. 126. That act number two hundred of the public acts of eighteen hundred and ninety-one, entitled "An act to provide for the assessment of property and the levy of taxes thereon, and for the collection of taxes heretofore and hereafter levied, and to repeal act number one hundred and ninety-five of the session laws of one thousand eight hundred and eighty-nine, except as provided in this act, and all other acts and parts of acts in anywise contravening any of the provisions of this act," approved July seventh, eighteen hundred and ninety-one, and all other acts and parts of acts in anywise contravening any of the provisions of this act, be and the same is hereby repealed: *Provided*, That such repeal shall not destroy or affect any rights which may have accrued or may hereafter accrue under such acts or parts of acts while the same were in force.

Act 200, Public Acts of 1891, repealed.

Contravening acts repealed.

Proviso.

See *Blackwood v. Van Vliet*, 30 M. 118.

INSPECTION AND DISPOSITION OF STATE TAX LANDS.

SEC. 127. Am. Act 154 of 1895. (3949) Am. Act 107 of 1899. Lands delinquent for taxes for any five years, where said lands have been sold and bid off to the State for the taxes of one or more of the said years, and then so held, and no application having been made to pay, purchase or redeem the said lands for said taxes and no action pending to set aside such taxes or to remove the cloud occasioned thereby, shall, within the meaning of this act, be deemed abandoned lands, unless such lands are actually occupied by the person having the record title thereto. Any lands delinquent for taxes for a period of five or more years, and said lands having been sold and bid in by the State and held by the State for the taxes of any of said years, and no application having been made to pay, redeem or purchase the same, and no suit pending to set aside said taxes or remove the cloud from the title occasioned thereby, shall be subject to the provisions of this section. Whenever it shall appear by the records in the Auditor General's office that any lands are delinquent for taxes for five years or more and that said lands have been bid off to the State one or more times by reason of such delinquent taxes, and that the time of redemption of such sale or sales has expired and that no application has been made to pay, to redeem or purchase the same, and it shall appear that no action is pending in the circuit court of the county where said lands are situated to set aside the taxes or remove the cloud on the title occasioned thereby, the title to the State shall be deemed absolute in and to said lands; and it shall be the duty of the Auditor General and the Commissioner of the State Land Office to cause an examination of such lands to be made as soon as practicable, to ascertain their value and if abandoned. Upon the examiner filing a certificate as to said examination and the occupancy of said premises, and the certificate of the county

Certain state tax lands deemed abandoned.

Title of state to such lands absolute.

Examination of lands.

Examiner's and county clerk's certificate.

Determina-
tion by
Auditor
General and
Commissioner
of State Land
office.

clerk of the county where said lands are situated, in the office of the Auditor General, showing that no suit is pending in said county to set aside any of said taxes or remove the cloud occasioned thereby, the Auditor General and the Commissioner of the State Land Office shall determine what lands so examined come within the provisions of this section, and record their determination in a book to be kept in the office of the Auditor General for that purpose. The finding and determination of the Auditor General and the Commissioner of the State Land Office shall show :

First, A description of said lands ;

Second, The years for which they have been returned delinquent for taxes ;

Third, The time or times bid off to the State, and the taxes for which said bid was made ;

Fourth, Whether said lands are occupied or abandoned ;

Fifth, Whether or not any suit is pending in the county where said lands are situated to set aside the taxes, or any of them, or to remove the cloud occasioned thereby.

Limitation of
contest.

Auditor Gen-
eral's deed to
state.

Recording and
filing.

Suit to
vacate.

Payment of
taxes condi-
tion prece-
dent.

Disposition
of money
paid.

The determination of the Auditor General and Commissioner of the State Land Office in that regard shall be deemed to be conclusive as to the facts therein stated, unless suit is instituted to vacate the same within six months, as hereinafter provided. Within ninety days after such determination the Auditor General shall make a transfer by deed of all lands so determined by the Auditor General and said Commissioner of the State Land Office to come within the provisions of this section to the State of Michigan as to an individual, as provided in section seventy-two of this act so far as said section is applicable. Said deed or deeds shall be delivered to the Commissioner of the State Land Office, who, after having said deed or deeds recorded in the register of deeds office, of the county where the lands are situated, shall file the same in his office. Upon the execution and delivery of said deed or deeds to the Commissioner of the State Land Office, said commissioner shall hold said lands as State lands, subject to the provisions hereinafter contained. And no suit shall be instituted to vacate, set aside or annul the said determination of the said Auditor General and the Commissioner of the State Land Office made as aforesaid unless instituted within six months after the determination aforesaid. Any person desiring to file a bill or institute a suit to vacate the findings of the Auditor General and Commissioner of the State Land Office, as provided in this section, shall first pay to the Auditor General all delinquent taxes returned to the Auditor General on the lands in question, together with all interest, costs and charges, and shall purchase and pay for all bids and titles held by the State to such lands by paying therefor the amount bid by the State and all interest and legal charges thereon, as provided in section eighty-four of this act. The money so received by the Auditor General shall be paid into the general fund of the State and in case the determination of the Auditor General and Commissioner of the

State Land Office should be set aside and held for naught, and the taxes, or any portion thereof, shall be adjudged invalid for any of the reasons set forth in section seventy-six of this act, then in such case the Auditor General shall return to the person entitled thereto such taxes, or any portion thereof, as shall be so adjudged invalid for the reasons aforesaid, and in case the title is held valid the money so received shall be divided between the State, county and township pro rata according to the taxes paid, the same as in other cases. Any suit instituted for the purpose of setting aside the determination aforesaid may be commenced in the circuit court of the county of Ingham. It is hereby made the duty of the county clerks of the several counties of this State, on inquiries by the Auditor General, to furnish to said Auditor General a certificate showing whether or not any such suit is pending in the circuit court of the counties, as above referred to, relating to any lands described and referred to in the inquiry of the Auditor General.

Suit in Ingham county.

Duty of county clerks.

Lands held for the last three consecutive sales under tax law of '89, subject to provisions of this section if also bid to the State at sale of December, 1893, under this act.—Conn. M. L. Ins. Co. v. Wood, 115 M. 444. See also Attorney General's opinion, 5 Det. Leg. News No. 16.

To constitute a continued possession it is only necessary that it should have been such as the owner of that kind of real estate (remote pine lands) ordinarily exercises.—Safford v. Basto, 4 M. 406.

Where delinquent tax lands are transferred to the State by the auditor general in pursuance of section 127, act 107 of 1899, as "barren, swamp or worthless lands," the joint action of the auditor general and commissioner of the State land office cannot be set aside on a showing made by the owner of the title that such lands were not barren, swamp, worthless or abandoned.—Semer v. Wildey et al, 10 D. L. N. 309.

The auditor general deeded certain delinquent tax lands to the State as tax homestead land and these lands were omitted from the assessment rolls the following year. Respondent claimed that the action in deeding the lands to the State as tax homestead lands was void, and by reason of those lands being omitted from the assessment rolls it was compelled to pay more than its share of the tax levy. *Held*, (1) That the title being in the State, the State could properly exempt the land from assessment, and that the omission of the land from assessment by the officer of the township, acting in good faith under instructions from the proper State officer, did not vitiate the tax levy. (2) That the respondent cannot in this proceeding raise the question of the validity of the decree under which the State obtained title.—Auditor General v. Sage Land & Improvement Co., 129 M. 182.

Complainant's bill charged defendant L. with fraud in neglecting to pay taxes and procuring a homestead certificate to land leased to L. by complainant. The defendant set up that the proceedings to set aside the homestead certificate had not been commenced within the time provided for by statute, and that complainant's bill did not state payment of delinquent taxes by complainant. *Held*, That complainant's failure to pay the taxes is not a defense to the fraud charged against defendant L.—Dixon v. Ludington et al, 9 D. L. N. 46.

Lands deeded State under Sec. 127 "are not lands granted to the State, except in a most technical sense for, though the auditor general does execute a deed to the State, he holds them in the first instance for the State, which has purchased them for delinquent taxes."—Gibson v. Land Commissioner, 121 M. 49.

Act 84, Laws 1903.

AN ACT to define and perfect the title to certain State tax homestead lands and to limit the time for bringing actions in regard thereto.

The People of the State of Michigan enact:

SECTION 1. After the expiration of six months from and after the time when any deed made to the State under the provisions of section one hundred twenty-seven of act two hundred six of the public acts of eighteen hundred ninety-three, being the general tax law, and acts amendatory thereto, shall have been recorded in the office of the register of deeds for the county in which the land so deeded shall be situated, the title of the State in and to the same shall be deemed to be absolute and complete, and no suit or proceeding shall thereafter be instituted by any person claiming through the original or government title to set aside, vacate or annul the said deed or the title derived thereunder: *Provided*, That as to all lands heretofore deeded to the State under the provisions of said section one hundred twenty-seven of said act two hundred six

of the public acts of eighteen hundred ninety-three, the title of the State thereto shall be deemed to be absolute and complete after a period of six months from the taking effect of this act, and no suit or proceeding shall thereafter be instituted by any person claiming through the original or government title to set aside, vacate or annul said deed or deeds or the title derived thereunder.

Record of
state tax
deeds to
state.

Duty and
fees of
register.

SEC. 128. Am. Act 107 of 1899. (3950) The register of deeds for each county, upon delivery to him for that purpose of the deeds mentioned in the preceding section, shall record the same in his office and return such deeds to the Commissioner of the State Land Office. The register of deeds for recording such deeds shall receive the sum of fifty cents each from the State Treasurer out of any funds not otherwise appropriated, upon allowance of his account by the Board of State Auditors.

See 11237 C. L. '97.

Record in
State Land
Office.

SEC. 129. (3951) The Commissioner of the State Land Office shall make a list or entry in books in his office of such lands, separate from other State lands, showing the amount of taxes due and the years for which such lands were delinquent for taxes, the date of inspection and by whom inspected, and when deeded to the State; also when, to whom, and upon what conditions sold or disposed of, as hereinafter provided.

Cancellation
of certain
taxes.

SEC. 130. (3952) Am. Act 107 of 1899. All taxes charged against such lands in the office of the Auditor General at the time they are deeded to the State shall be canceled, but no part of such taxes due to the township or county shall be charged to the State, but the State, county and township respectively shall bear the share of loss on such taxes that properly belongs to each, and the Auditor General shall make a list of all such lands in each county on or before the first day of March in each year and transmit such list to the county treasurer and the county treasurer shall serve, or cause to be served, upon the supervisor of the township in which such lands are located a copy of the list of lands in such townships as furnished to said treasurer by the Auditor General. Said supervisor shall produce said list to the board of review while in session for the purpose of reviewing the assessment roll.

Notification
of county
treasurers by
Auditor
General.
County treasurer
to notify
supervisor.

Lands deeded
state to be
omitted from
assessment
roll.

The supervisor shall omit and cancel from his assessment roll all said lands so deeded to the State, as shown by said list, and it shall also be the duty of the board of review, when in session, to compare the assessment roll of the township with the list so furnished by the county treasurer, as aforesaid, and correct all mistakes, and said lands so deeded as aforesaid shall not be liable to any assessment for any purpose until the same are again sold and decided by the State, and notice of said sale and deeding given to the county treasurer by the Commissioner of the State Land Office, as hereinafter provided.

Such land not
taxable until
sold.

SEC. 131. (3953 C. L. 1897; Am. by Act. 141. Lawws 1901). All such lands shall be held by the Commissioner of the State Land Office subject to entry as homestead lands unless withheld and reserved in the manner following. The Commissioner of the State Land Office and the Auditor General, acting jointly may reserve and withhold from entry under the homestead right such portion of the lands deeded by the Auditor General

to the State under section one hundred twenty-seven of act number two hundred six of the public acts of eighteen hundred ninety-three and acts amendatory thereto as, in their opinion, may not be advantageous to open for homestead, and they may withhold and reserve such land from entry for so long a time as in their opinion will best subserve the interests of the State. The said Land Commissioner and Auditor General shall affix a minimum price upon all lands so reserved and withheld, or which may hereafter be reserved and withheld. All such lands withheld from homestead entry shall be offered for sale by said Land Commissioner at prices to be discretionary with him: *Provided*, That in the sale of these lands so reserved and withheld, the same rules and regulations as provided in act number twenty-one of the public acts of eighteen hundred seventy-three, entitled "An act to require the Commissioner of the State Land Office to give public notice of the restoration of reserved and forfeited state lands to market" shall govern, and no bid shall be accepted for less than the minimum price affixed by such Land Commissioner and Auditor General. The proceeds for any such sale shall be accounted for to the State, county and township in which said lands are situated pro rata according to their several interests therein, arising from the non-payment of taxes thereon as such interest shall appear in the office of the Auditor General. If any person shall apply for any lands subject to entry as homestead, or any part thereof not to exceed in quantity one hundred sixty acres, or if within the limits of the plat of any city or village, not to exceed the contiguous lands in any one block, or two contiguous parcels of unplatted land, for any one person so applying, and shall file an affidavit that such person desires such lands for actual settlement, for the purpose of a homestead, the Commissioner of the State Land Office shall, if in his judgment the application is made in good faith, issue a certificate to such person for such land upon the payment of the sum of ten cents per acre, conditioned that such persons shall reside upon said lands for the period of five years and improve the same: *Provided*, That in case such lands are included in the plat of any city or village or of any subdivision of or addition to any city or village, the land that may be taken as a homestead by any person shall be contiguous and shall not exceed one block according to such plat, or two contiguous unplatted parcels, except where such city or village lands have been bid to the State by government description, in which case no person shall receive a certificate for more than one government description, and in the case of any such lands the amount paid therefor shall be the same for any parcel less than one acre as for one acre as provided in this section. At the expiration of such five years such person shall be entitled to make, and shall make, proof of the fulfillment of such contract within three months in such manner as the said Commissioner of the State Land Office may prescribe. And when such proof is made to the

satisfaction of said Commissioner of the State Land Office such person shall be entitled to a deed of such land from the State, executed by the Commissioner of the State Land Office, on behalf of the State, which deed shall be in such form as the Commissioner of the State Land Office shall determine; the said deed shall be witnessed and acknowledged, and shall be entitled to record in the office of the register of deeds in the proper county, in the same manner and with like effect as other deeds are duly witnessed, acknowledged and certified. Such deed shall convey an absolute title to the lands sold, and shall be conclusive evidence of title in fee in the grantee, and it shall be the duty of the State of Michigan to defend and prosecute all suits brought to protect such title, and the State shall pay all costs adjudged against the homesteader. Such homestead lands shall be subject to the same rules and regulations now in force as to other homestead lands not inconsistent with the provisions of this act. Persons who have heretofore taken up homestead lands under this section, having made the first payment required by this section, and having resided upon and improved the same since they entered thereupon, are hereby relieved from making any further payments to the State: *Provided further*, That nothing in this section shall be construed to entitle any person or persons who have heretofore entered such lands to the return of any part of the payments heretofore made by them: *And provided further*, That any person who has purchased and entered into possession of any lands as a homestead, under and by virtue of the provisions of this section, as originally passed, or as amended when said lands had been bid off to the State and were held by the State for the taxes of one or more years, and said lands were delinquent for taxes for three or more years, shall, on performing the other conditions of said section, as amended, receive a deed therefor, as herein provided, and shall be deemed to have a good, sufficient fee simple title to said premises, to all intents and purposes the same as though said lands had been bid off to the State for a consecutive period of more than three years, as originally provided in section one hundred and twenty-seven of said act. And in all cases where the lands have been taken as a homestead as set forth in last foregoing proviso, all actions of ejectment or to recover possession of said lands or to set aside the title of such homesteader by any person, firm or corporation claiming the original or government title, shall be commenced within six months after this act shall take effect, and not afterwards. Said person, firm or corporation shall before commencing such proceedings pay to the Auditor General all delinquent taxes returned to the Auditor General on the lands in question, together with all interest, costs and charges, and shall purchase and pay for all bids and titles held by the State to such lands by paying therefor the amount bid by the State and all interest and legal charges thereon, as provided in section eighty-four of this act. The

money so received by the Auditor General shall be deposited in the State treasury to the credit of the State, county and township wherein said lands are situated in proportion to the amount of taxes due to the State, county and township upon said lands; and in case the State's title to the land shall be declared valid, then the taxes and moneys so paid by the person, firm or corporation instituting such suit of ejectment shall be returned upon the order of the Auditor General, less the costs of such suit. And it shall be the duty of the State of Michigan to prosecute and defend suits and pay costs as herein provided: *And provided further*, That after the said land has been so held by the State of Michigan subject to entry as homestead land, for three years from April one, eighteen hundred ninety-nine, for all land already deeded to the State and for three years or more from the date of the deed for all lands hereafter deeded to the State under section one hundred twenty-seven aforesaid, and where no application has been made to homestead certain descriptions of said lands then and in such case said lands concerning which there has been no application to homestead shall be open to sale and purchase as hereinafter provided. In case written application shall be made to the Commissioner of the State Land Office to purchase any description of said lands so held by the State for more than three years, as herein stated, it shall then be the duty of the Commissioner of the State Land Office to examine and appraise the value of the land so offered to be purchased as aforesaid. The Commissioner of the State Land Office shall make a record of said appraisement in a book to be kept in his office for that purpose. After such examination and appraisement, if there has been no application to homestead said lands, it shall be competent and the Commissioner of the State Land Office is hereby authorized to sell such description of land to any person so applying for the purchase thereof, but at not less than the appraised valuation, and he shall not be authorized to sell to any one person over two hundred and forty acres of said land. In case of the sale of said lands, the Commissioner of the State Land Office shall execute and deliver to the purchaser a deed in such form as he may determine, which shall convey to the purchaser the same interest as is provided for a deed where said lands have been homesteaded as provided in this section. All moneys received by the Commissioner of the State Land Office upon the sale of said lands as provided under the last above proviso shall be by him deposited in the State treasury to the credit of the State, county and township wherein said lands are situated in proportion to the amount of taxes due to the State, county and township upon the land so sold by the Commissioner of the State Land Office at the time of the conveyance to the State of such lands.

Improvements on any such lands held under certificate are assessable as personal property. See Sec. 132. For manner of assessment see Sec. 4.
A homestead entry vests no title, but gives a right of possession which may be perfected by continued occupancy and improvement, and if not so perfected reverts to the government. When perfected, title issued relates back to the

time when entry was made.—*F. & P. M. R. R. Co. v. Gordon*, 41 M. 420. The retention of homestead rights, though the party live elsewhere temporarily, is largely a matter of continuing intent, and is a fact to be proved like any other fact.—*Hoffman v. Buschman*, 95 M. 538. The duration of a man's absence from his own house does not of itself supply a conclusive presumption that he has abandoned it as a homestead.—*Bunker v. Paquette*, 37 M. 79.

But a homesteader holding a tax homestead certificate would forfeit his rights to the land by wholly removing himself and his family therefrom and only holding possession of the lands by hiring another party to live upon and improve the land.—*Opinion of Attorney General Oren*, *Det. Leg. News*, March 24, 1900.

Homesteaders are protected by provisions of Sections 73 and 104.—*Conn. M. L. Ins. Co. v. Wood*, 115 M. 444.

The limitation of time within which actions can be brought to recover possession or to set aside title of the homesteader is not confined to cases where the homesteader has obtained his deed, but is *retroactive* and covers any case where one claims under a valid homestead certificate.—*Semer v. Wildey et al*, 10 D. L. N. 309.

Improvements
assessable.

SEC. 132. (3954) Lands held under such contract shall not be assessed until the State has given title to the occupant thereof, but improvements upon any such lands may be assessed as personal property, as in the case of other part paid lands.

SEC. 133. (3955 C. L. 1897; Am. by Act 39. Laws 1901) Whenever any person has perfected his title to any such lands, and a deed for the same has been issued by the State to such person, the Commissioner of the State Land Office shall so notify the county treasurer of the proper county that such lands are again and thereafter taxable as other lands. And they shall thereafter be assessed to such owner or occupant as other lands are assessed for all purposes. The county treasurer shall serve, or cause to be served upon the supervisor of each township in which such lands are located, on or before the fifteenth of April, a copy of the list of lands in his township, so furnished to said county treasurer by the Commissioner of the State Land Office. Said supervisor shall produce said list to the board of review, while in session, for the purpose of reviewing the assessment roll, and all such lands shall be placed upon the assessment roll: *Provided*, That if any homesteader upon any of the lands so deeded to the State and held for homestead entry shall surrender his certificate to the State for the benefit of any other applicant, and if such new applicant shall be granted a certificate, the said lands shall become subject to assessment as real estate after the expiration of five years from the original entry.

Proceeds.

SEC. 134. (3956) All moneys received by said commissioner for such lands shall be turned over to the State Treasurer and placed to the credit of the general fund, and all expenses incurred shall be audited by the Board of State Auditors and paid out of the general fund.

Expenses.

SUPPLEMENTARY.

Recording and
filing plats,
deeds, etc.

SEC. 135. Am. Act 154 of 1895. (3957) When any deed, land contract, plat of any town site, village or addition to any town site, village plat or city, or any other instrument for the conveyance of title to any real estate, is presented to the register of deeds of any county in this State for record or

filing in his office, he shall require from the person presenting the same a certificate from the Auditor General, or from the county treasurer of the county, whether there are any tax liens or titles held by the State, or by any individual, against such piece or description of land sought to be conveyed by such instrument, and that all taxes due thereon have been paid for the five years preceding to the date of such instrument, and in default of the presentation of such certificate he shall not record the same until such certificate is secured and presented. The register of deeds shall note the fact upon said deed that said certificate has or has not been presented to him when such instrument is presented for record, and in case the person presenting such instrument shall refuse to procure such certificate, he shall endorse that fact upon said instrument, over his official signature, and shall refuse to receive and record the same: *Provided*, That the provisions of this section shall not apply to the filing of any town or village plat for the purpose of incorporation, in so far as the land therein embraced is included in a plat already filed in the office of the register of deeds, or in so far as the description of lands therein is not changed by such plat, nor to the filing of any copy of the town, village or city plat in case the original plat filed in the office of such register of deeds has been lost or destroyed, nor to any sheriff's or commissioner's deed executed for the sale of lands under any proceeding in law, or by virtue of any decree of any of the courts of this State, nor to any deed of trust by any assignee, executor or corporation executed pursuant to any law of this State, nor to any quit claim deed or other conveyance containing no covenants of warranty; nor to any land patent executed by the President of the United States, or the Governor of this State, nor to any tax deed made by the Auditor General; nor to any deed executed by any railroad company conveying its right of way, provided such deed is accompanied by a certificate of the Auditor General showing that all specific taxes due from said railroad company have been paid, to and including the year in which such deed is executed. A violation of the provisions of this section by any register of deeds shall be deemed a misdemeanor, and upon conviction thereof he shall be fined not to exceed one hundred dollars, and he shall further be liable to the grantee of any instrument so recorded for the amount of damages sustained, to be recovered in an action for debt in any court of this State.

Register to require certificate of payment of taxes, etc.

Noting certificate.

When register shall refuse to record.

Proviso.

Exceptions.

Penalty.

The evident purpose is to secure collection of taxes and the section is not void under Sec. 20. Art. IV, Constitution.—*Van Huse v. Heames*, 96 M. 504. Provisions of section not an infringement of property rights.—*Id.*

"That all taxes due thereon for the five years, etc., refers to taxes appearing upon the records of the auditor general or county treasurer and the certificate must be made from the facts shown by those records. The instrument is entitled to record unless the certificate shows that all taxes have not been paid for the five years previous to its date; and sale to individuals is payment of the taxes for which the land was sold. The certificate need not specify the unpaid taxes nor the outstanding tax liens or titles, but only whether there are or are not any of each.—*Van Huse v. Heames*, 96 M. 504.

Fee of county treasurer for certificate, 15 cents, and five cents for each description.—2548 C. L. '97. Am. by Act 173 Laws of 1903. The charge made by the Auditor General for certificate is fifty cents where the instrument does not contain more than two or three descriptions, but is governed by the provisions of Sec. 166 C. L. '97, and consequently where the instrument contains a large number of descriptions an additional charge is made.

The record of an instrument not by law entitled to record is notice to no one.—Dutton v. Ives, 5 M. 515; Galpin v. Abbott, 8 M. 17.

Blanks for county treasurers' certificates under this section are furnished by the Auditor General. It is frequently made evident that unapproved forms are used in some counties, in certain instances the certificate showing no more than that the taxes for the five years preceding the date of the instrument to be recorded have been paid. Such a certificate is not a compliance with the law and is frequently misleading. Sale for taxes to an individual is a payment of the tax, but this legal conclusion not being popularly understood, a certificate showing no more than that the taxes are paid is understood by many as showing that the land has not been sold for taxes and often leads owners to neglect redemption, and consequently to a loss of their titles. The certificate should contain a description of the lands, should show whether or not "there are any tax liens or titles held by the State," should state affirmatively or negatively whether "there are any tax liens or titles held by any individual," and whether the taxes for the five years preceding the date of the instrument, are paid. If the taxes for the prescribed period are shown to be paid, the instrument is entitled to record, although there may be any number of tax titles held by individuals or by the State, provided none of the latter are for taxes of either of the five years preceding the date of the deed (not of the certificate). If asked for, and the statutory fee paid, the certificate should be issued, whether it shows the instrument to be recordable or not.

A tax history cannot be substituted for this certificate, nor should the certificate recite what liens or taxes there may be against the land, such showing being provided for by the statutes providing for making tax histories and for the fees therefor.

Sec. 136. [Provided for the purchase of lands held as State tax lands five years prior to 1890. The section expired by its own limitation January 1, 1894.]

Writs of assistance.

SEC. 137. (3958) The circuit court may, on application, put the purchaser of any lands sold under the provisions of this act in possession of the premises by writs of assistance.

A demand for the possession of land made upon the agents of a corporation who are in the actual occupancy thereof is a sufficient foundation for an application for a writ of assistance against the corporation.—Ball v. Ridge Copper Co., 118 M. 7. Further as to writ of assistance see Sec. 70, 72, and Berkey v. Burchard, 119 M. 105.

Defendant purchased the property in question at a sale under a decree and was put in possession by a writ of assistance, to which writ plaintiff had filed answer that the decree was void for want of jurisdiction for reasons specifically set out, and which answer had been overruled. *Held*, that the validity of the decree was necessarily involved in the determination of the application for the writ of assistance; and hence, having been once submitted to a competent tribunal, plaintiff cannot retry it in ejectment, on discovering additional grounds on which to attack the jurisdiction. On an application for a writ of assistance it was competent for the opposing party to show that the decree on which such application was based was void for want of jurisdiction.—Peters v. Young et al, 122 M. 484.

Lands returned under prior tax laws.

SEC. 138. Added by Act 169 of 1899. All lands which have been returned to the Auditor General as delinquent for taxes under the provisions of any general tax law in force prior to the passage of act two hundred of the public acts of eighteen hundred and ninety-one, and upon which the taxes are now or shall hereafter remain unpaid and which have not been sold for such taxes, and all lands so returned which have been heretofore sold for such delinquent taxes, and upon which the sale or sales so made shall have been or may hereafter be set aside by any court of competent jurisdiction, or shall have been or may hereafter be canceled, as provided by law, shall be subject to disposition, sale and redemption for the enforcement and collection of such tax liens in the method and manner provided in this act for the disposition sale and redemption of lands made subject to the provisions of this act by section sixty thereof: *Provided*, That nothing in this section contained shall be held to provide for the sale of any lands heretofore sold, if the sale thereof shall have been set aside or canceled for any reason affecting the validity of the taxes for which the land

Subject to sale under this act.

No sale for invalid taxes.

was sold: *Provided further*, That the court may in its discretion, where equity appears to so demand, enter decree of sale for the taxes for any year prior to eighteen hundred ninety-one, for the amount of the taxes found valid, without including the charge for interest thereon as provided by law: *And provided further*, That if tender of the amount assessed against any land for taxes of eighteen hundred ninety, or any prior year is made to the Auditor General, together with the collection fee and the charge for expenses as provided by law, at any time before the first day of the month preceding the month in which sale is ordered to be made, he shall issue receipt therefor, and cancel any State bid under which said land is held for said year and in such case the State, county and township shall bear the loss of accrued interest in proportion to their several interests therein.

Court may decree sale for certain taxes without interest.

Payment of taxes of 1890 and prior years.

Payment under this section cannot for any purpose be deemed to be a payment as a condition of purchase, but is a voluntary payment, and can only be made to Auditor General.

See Auditor General v. O'Connor, 83 M. 464.

SEC. 139. Added by Act 169 of 1899. The Auditor General may cause an examination to be made of the proceedings under which any lands bid to the State, and which have not been deeded by the Auditor General, were sold for delinquent taxes and bid to the State under the provisions of any general tax law, and if he shall find that such sales or the decrees under and by virtue of which such sales were made were in contravention of any provision of the laws in force at the time such decrees were entered or sales made, he may cancel such sales and proceed at any time to enforce the collection of such taxes under and in accordance with the provisions of this act, as in the case of lands returned or sold thereunder.

Cancellation of state bids and resale of lands held under invalid sales.

Lands sold on void decrees or void proceedings and sales canceled are re-advertised and subject solely to 138 and 139. The taxes cannot be paid at treasurer's office or statements made by county treasurer be binding upon auditor general to correct if erroneous. The Auditor General had authority to include the land in subsequent petition.—Schulte v. Auditor General, 9 D. L. N. 486.

The requirement of the recording of the court's order under Sec. 62 is not jurisdictional so as to invalidate the tax sale on account of failure to record it at length.—Burns v. Ford, 124 M. 274.

SALES UNDER LAW OF 1885: Law prospective only and sale under it for taxes assessed under law 1882 is absolutely void.—Hall v. Perry, 72 M. 202; McNaughton v. Marin, 72 M. 276.

Interest on taxes assessed under drain law 1885.—Tile Co. v. Snyder, 93 M. 325; Bump v. Jepson, 106 M. 641.

Where the board of supervisors voted salaries to the sheriff and other officers, and such salaries were included in the tax levy in 1886, tax deeds based thereon are void.—Collins v. Rea, 127 M. 273.

A sale of real estate for the taxes of 1882 under the tax law of 1885, authorizing the sale of real estate for taxes, confers no title on the purchaser, as the act is prospective, and does not apply to taxes accrued prior to its passage.—Nowlen v. Hall, 128 M. 274.

SALES UNDER LAW 1889: As to service of subpoena, see Coyle v. O'Connor, 121 M. 596.

Under tax law of 1889 a failure to serve a subpoena upon the owner of lands returned as delinquent is not fatal to the jurisdiction of the court where the land is returned as "unknown" as the county obtains jurisdiction to enter a decree against such persons by publication of the notice required by the statute.—Tromble v. Hoffman, 9 D. L. N. 183.

SALES UNDER LAWS OF 1889 AND 1893: Land bid to state and so held cannot be included in subsequent proceedings for sale.—Connecticut Mutual Life Insurance Co. v. Wood, 115 M. 444 (applicable to sale 1890 to 1898, inclusive). But tax deed cannot be attacked in collateral proceedings on this ground.—Peninsular Savings Bank v. Ward, 118 M. 87. The provision under which the decision in Conn. M. L. Ins. Co. v. Wood was rendered was eliminated by the amendment of Sec. 61 in 1899.

Decree will be set aside and deed issued thereunder vacated where court failed

to sit for the first five days after the day fixed for hearing (by Sec. 56, Law 1889, and Sec. 66, Law 1893, before amendment of 1899).—*Youngs v. Clark*, 120 M. 528. Where the fifth day falls on Sunday decree cannot be entered until the following Monday.—*McGinley v. Calumet and Hecla Mining Co.*, 121 M. 88; *Hall & Munson Co. v. Auditor General*, 121 M. 88.

Decree entered in less than five days from date fixed for hearing is void as to those who did not appear or otherwise waive right to apply for further time.—*Wait v. McMillan*, 121 M. 95.

Where (under Sec. 66 before amendment of 1899) day fixed for hearing was September 24 and judge was not present on that day, but sent order to adjourn to September 30th and it was done and court was in session on the 30th and then adjourned to October 4, when decree was entered: Held, that court did not acquire jurisdiction to enter decree, owner being entitled to five court days (not necessarily consecutive) in which he can make it appear to the court that he has been prevented from filing objections.—*Miller v. Brown*, 122 M. 147.

Sec. 66 (before amendment 1899) does not require the court to be actually in session, and when the court was adjourned from day to day for the purpose of allowing protest to be filed and the decree was not signed until after the fifth day, no objection could be raised.—*Gates v. Johnson*, 121 M. 663.

Where the time fixed for the hearing of the petition was November 10 and the court was in session continuously from that day to November 14, inclusive, and then adjourned until Monday the 16th, when the decree was made and entered, it is held that this is sufficient under Sec. 66, Law of 1893 (before amendment of 1899).—*Brown v. Houghton Mineral Land and Mining Co.*, 123 M. 117.

Omission of dollar mark in Tax Record.—*Millard v. Truax*, 99 M. 157.

The record in this case shows that the 15th day of October, 1895, was fixed by the court for hearing the Auditor General's petition for the taxes of 1893; that on that day the court, by an order, adjourned all proceedings until the 29th day of October, following; that court was in session Oct. 29, 30 and 31, on which day tax matters were heard; that court continued in session Nov. 1 and 2, when it adjourned sine die. On the 15th of November the decree was signed as of the 31st of October. Held, that there was ample time to file objections under the ruling in *Miller v. Brown*, 122 M. 147.—*Allen v. Cowley*, 128 M. 530.

A decree of sale (before amendment of 1899) rendered within five days after the day fixed by the hearing is void as to persons who did not appear, or otherwise waive the right to apply for further hearing. Following *Peninsular Sav. Bank v. Ward*, 118 M. 87, and *McGinley v. Mining Co.*, 121 M. 88.—*Aztec Copper Co. v. Auditor General*, 128 M. 615.

Where time fixed for hearing was Nov. 11th a decree entered Nov. 16th was not premature.—*Brown v. Napper*, 125 M. 117.

Sale to State in 1894 and 1895 was set aside by the Auditor General on his own motion and lands readvertised in 1902. The subsequent sale to Griffin attacked on the ground the Auditor General had no authority to set aside the sales to State under first decrees. Held, that the action of the Auditor General in setting aside the first sale was not prejudicial to owner.—*Blondin v. Griffin*, 10 D. L. N. 354.

SALES UNDER LAW 1893: Purchaser under Sec. 84 (before amendment in 1899) must pay all taxes that are a lien on the land (whether returned or not), and this amount he is bound to know, and must produce evidence that they are paid if such be the fact.—*Hughes v. Jordan*, 118 M. 27; *Cockburn v. Auditor General*, 120 M. 643.

When certain applicants to purchase State tax lands had not paid township taxes then due, but made showing said taxes had been paid, and it appearing that such payment was by checks and made by subsequent applicant prior to his application to purchase, but that at the date of the application of the prior applicants said checks had not been paid, but that they were paid before the subsequent applicant's application was made to purchase: Held, that the subsequent applicant was entitled to deed.—*Moore v. Auditor General*, 122 M. 599.

SEC. 140. (Am. by Act 236 Laws 1903) No writ of assistance or other process for the possession of any land the title to which has been obtained under and in pursuance of any tax sale made after the twenty-ninth day of August, A. D., eighteen hundred ninety-seven; or of any sale of State tax lands or State bids made after the said twenty-ninth day of August, eighteen hundred ninety-seven, except where such title shall be obtained under the provisions of Section one hundred thirty-one of this act, shall be issued until six months after there shall have been filed with the county clerk of the county where the land is situated a return by the sheriff of said county, showing that he has made personal service, or until substituted service, as hereinafter provided, has been made upon the grantee or grantees under the last recorded deed in the regular chain of

Description. **Amount paid,** **Taxes for 1...**
 (Signed)

Place of business.....

Provided, That if grantee or grantees, or the person or persons holding the interest in said lands as aforesaid, shall be residents of any county of the State other than the county in which the land is situated, then such return as to such persons shall be made by the sheriff of the county where such person or persons reside: *Provided further*, If any grantee or grantees, or the person or persons holding the interest in said lands as aforesaid shall be non-residents of this State, if from the said record aforesaid, or from inquiry the sheriff can obtain the postoffice address of such grantee or grantees, or the person or persons holding the interest in such lands as aforesaid, or if said addresses be known to him, he shall send to such person or persons aforesaid a copy of said notice by registered letter, and return the receipt or receipts received for said letter or letters with his return to the county clerk's office: *Provided further*, That if any person entitled to notice as hereinbefore provided is dead, or if his estate shall be under control of a trustee or guardian, then and in such case notice as hereinbefore provided may be served upon the executor or administrator of said deceased person, or upon his heirs, if there be no executor or guardian of any incompetent person, with like effect as if served upon the grantee, mortgagee or assignee: *Provided further*, That if the sheriff of the county where any such lands are located shall make a return that after careful

inquiry he is unable to ascertain the whereabouts or the post-office address of the grantee named in the last recorded deed, or deeds, or the mortgagee named in all undischarged recorded mortgages, or the assignee of record of said mortgage of said premises, or of the heir of said grantee or mortgagee or assignee, or whereabouts or the post-office address of the executor, administrator, trustee or guardian of such grantee, mortgagee or assignee, then such notice as is herein provided for shall be published for four successive weeks, which shall be construed to mean four publications once each week, in some newspaper published and circulating in the county where such lands are located, if there is one; and if no such paper is published in such county then publication shall be made in some newspaper published and circulated in an adjoining county, and due proof of publication, by affidavit of the printer or publisher of such newspaper, shall be filed with the county clerk, and shall be in lieu of the personal service above provided for.

Recital of consideration in deed not conclusive as to the amount.—*Mowrey v. Vandling*, 9 M. 39. Recital of consideration in deed is merely to give it effect as conveyance; and for any other purpose parol evidence is admissible to show that it was actually more or less than the amount stated.—*Strohauer v. Voltz*, 42 M. 444; *Doty v. Martin*, 32 M. 462. And that it embraces other matters than those stated in the deed.—*Dean v. Adams*, 44 M. 117; *Trevlidick v. Mumford*, 31 M. 467. See also 9512 and 9519 C. L. '97. The true consideration of a deed may always be shown where it becomes material to do so.—*Flynn v. Flynn*, 68 M. 20. Consideration of deed may be shown by parol.—*Collar v. Collar*, 75 M. 414.

The consideration for re-conveyance is double the entire amount paid to purchase the land, which amount includes taxes paid for other years than those included in the deed if such additional taxes were paid as a condition of purchase. Notice in other cases than those definitely provided for in the section is nowhere provided for.—Attorney General's opinion, 5 Det. Leg. News No. 18.

Provisions of Sec. 140 et seq., not applicable to tax sales made prior to August 29, 1897.—*Pierpont v. Osmun*, 118 M. 472; *Walt v. McMillan*, 121 M. 93.

Plaintiff in ejectment claiming under a tax title acquired (if at all) after Act 229 of 1897 took effect, held not entitled to maintain the action, not having served notice on the owners as provided in that act.—*Church v. Smith*, 121 M. 97.

SUBSTITUTED SERVICE: The statute must be strictly complied with. If substituted service is resorted to it must appear that adequate endeavor has been made to make actual service.—*Merrill v. Montgomery*, 25 M. 72. Must be confined to the cases and exercised as provided by the statute.—*Hartford Fire Insurance Co. v. Owen*, 30 M. 441. See also *Campau v. Charbeneau*, 104 M. 422.

SEC. 141. (Am. Act 236, Laws 1903) Any grantee or grantees under the last recorded deed in the regular chain of title or under tax deeds to such lands, or any mortgagee or mortgagees named in all undischarged recorded mortgages, or any assignee thereof of record at the time of giving of said notice, or any executor, administrator, heir, trustee or guardian of said grantee, mortgagee or assignee, as provided in section one hundred forty of this act, shall be entitled to receive from the person so claiming under and by virtue of such tax deed, at any time within six months after the personal service of such notice, or the date of mailing said notice by registered mail, or the first publication of such notice, as so provided, a reconveyance of such interests in such land so held together with all certificates and tax receipts issued as a condition of such purchase upon payment to the owner of such tax deed or to the register in chancery of the county in which the lands are located of the amount paid

upon such purchase, together with one hundred per cent in addition thereto, and the lawful fees or costs for such personal service, or substituted service, which fee shall be the same as provided by law for service of subpoenas or for orders of publication, or the cost of such service by registered mail, and the further sum of five dollars for each description, without additional cost or charge: *Provided*, That any person or persons to whom the notice herein provided for is to be given shall, at any time before such notice is so given, be entitled to a reconveyance of any such lands to the parties in interest as appear of record, on the payment to such person or persons claiming title under and by virtue of such tax deed of the amount paid upon such purchase, together with one hundred per cent in addition thereto, and the further sum of five dollars for each description; or any person owning any right, title or interest in said lands shall at any time after the date of issue of tax deeds thereon, and before service of notice as herein provided, be entitled to redeem the land from sale by paying to the register in chancery of the county in which the lands lie on the certificate of the Auditor General or his deputy, all sums paid as a condition of such purchase, together with one hundred per cent additional thereto and the further sum of five dollars for each description. By such payment the tax title shall become void and of no effect against the lands thus redeemed. The register in chancery shall, whenever payment is made to him as provided in this section, at once notify the owner of the tax title of the payment so made, and the owner of the tax title shall forthwith deliver a quitclaim deed of said land running to the person making such payment, and shall also deliver to said register the tax deed, certificates of purchase, tax receipts and all other conveyances relating to said tax title before he shall be entitled to receive the money paid to said register as herein provided. Upon delivery of such reconveyance the register in chancery shall at once pay over to the owner of the tax title all sums received by him for redemption of the lands therein described: *Provided further*, That if any reconveyance is made to any mortgagee or mortgagees, or assignees thereof, such conveyance shall not operate as an absolute conveyance of the title to such lands, but shall be considered and treated as an additional lien upon said lands, and shall be added to the amount of such mortgage, and the mortgagor or person or persons claiming under him shall be entitled to a reconveyance of the tax title interest in such land from said mortgagee or mortgagees or assignees thereof, upon the payment of all sums so paid to such person or persons claiming under any such tax deed, with interest thereon at the rate of six per cent per annum from date of such payment, and such reconveyance shall in no way operate as a release or discharge of such mortgage lien: *Provided further*, That any such application for a writ of assistance shall show that such applicant has complied with the provisions of this act as to the giving of notice as herein directed,

and he shall attach to such application a copy of the notice aforesaid, and the return of the sheriff serving the same, or a copy of the proof of publication, or the registry receipt or receipts from the registry department of the postoffice showing that such notice has been served by registered mail.

Tender for reconveyance is to be made to the purchaser. Neither the Auditor General nor county treasurers have anything to do with reconveyance under this section.

The language of sections 140 and 141 clearly indicates the legislative intent that as a condition of reconveyance the purchaser of the State's title shall be repaid all that he has been compelled to advance to obtain his title.—*Cheever v. Flint Land Co. Ltd.*, 10 D. L. N. 584.

Where lands owned by more than one party are assessed and bid in by the State as one parcel and sold by the State as one parcel at the tax sale mandamus will not lie to compel the Auditor General to allow one of the owners to redeem under sections 140 and 141 of the tax law by paying a pro rata proportion of the bid in proceedings in which the purchaser is not a party.—*Kennedy v. Auditor General*, 10 D. L. N. 583.

A prior unrecorded deed, good as between the parties, is valid as against a subsequent quit-claim deed of the same property by the same grantor, and a grantee in a quit-claim deed is not a bona-fide purchaser, following rule in *Peters v. Cartier*, 80 M. 124.—*Messinger v. Peter*, 129 M. 93.

SEC. 142. (Am. by Act 83, Laws 1903) No purchaser under any tax sale hereafter made or of any State tax land or any State bid hereafter sold shall enter into possession of the land so purchased until six months after he has given notice to the party or parties in interest as provided for in the preceding sections unless he shall have acquired from said parties their title thereto under conveyance from said party or parties of his or their interest in said lands: *Provided*, That if suit or other proceeding is commenced before the expiration of the said six months by the owner of the land so purchased, or one having a redeemable interest therein, to set aside the sale thereof the purchaser under tax sale or his grantee shall not enter into possession of the land until the final determination of such suit or other proceeding.

Purchaser cannot enter into possession until after notice, and if he does he is a trespasser and not entitled to recover for improvements.—*Corrigan v. Davis*, *125 M. 125.

SEC. 143. (3962 C. L. 1897; Am. by Act 128, Laws 1901) Every person personally served with the notice provided for by act number two hundred twenty-nine of the Public Acts of eighteen hundred ninety-seven, and every person lawfully chargeable with such notice by registered mail, as provided for in said act, together with the heirs, executors, administrators or assigns of such persons, who shall refuse or neglect to pay or tender to the purchaser as aforesaid, the sum provided for in said act within the time therein limited, and who shall have neglected within the said six months to commence suit to set aside the said tax deed, shall thereafter be barred from questioning the validity of such tax title or tax deed mentioned therein.

Legislature has power to pass limitation laws prescribing the time within which parties shall assert their rights by suit.—*Price v. Hopkins*, 13 M. 318.

Auditor General to be a party to actions to set aside taxes or tax sales.

SEC. 144. (Added by Act 97 of 1899) The Auditor General shall be made a party defendant to all actions or proceedings instituted for the purpose of setting aside any sale or sales for delinquent taxes on lands held as State tax lands, or which

have been sold as such or which have been sold at annual tax sales, or for purpose of setting aside any taxes returned to him and for which sale has not been made; in all such cases a copy of the bill of complaint or petition shall be served upon the prosecuting attorney at the time of commencing the action, who shall send a copy thereof within five days to the Auditor General, which said service shall be in lieu of the service of process. Upon so being made a party, it shall be the duty of the Auditor General, whenever he shall, in his discretion, deem the same to be expedient, to the end that the State of Michigan may be fully protected, to cause the Attorney General to represent him in such proceedings. In any suit or proceedings instituted for the purpose in this section mentioned, no costs shall be taxed against either party to the action.

Service on
prosecuting
attorney.

Attorney
General to
defend in cer-
tain cases.

No costs
taxed.

As to requirement of one seeking to set aside taxes see *Merrill v. Auditor General*, 24 M. 169.

In suit to set aside drain tax county drain commissioner shall be made a party.—Act 141 of 1899.

An order of the circuit court denying a writ of assistance and holding a tax sale void in a proceeding in which the Auditor General was not a party, may be reviewed on a petition for mandamus to compel the Auditor General to refund the taxes held void under the decree.—*Newton v. Powers*, Auditor General, 9 D. L. N. 445.

See Secs. 70, 73, 76.

SEC. 145. (Am. by Act 174, Laws 1901) It shall be the duty of the Governor, by and with the advice and consent of the Senate, within five days after this act shall have been approved by the Governor, to appoint two resident freeholders of this State, who shall be duly qualified electors thereof, and who, together with the three persons now constituting the Board of State Tax Commissioners, shall hereafter constitute a Board of State Tax Commissioners, with powers and duties as prescribed under the provisions of this act, one of whom so appointed shall hold office until the thirty-first day of December, nineteen hundred four, and one of whom so appointed shall hold office until the thirty-first day of December, nineteen hundred six, and until their successors shall have been appointed and shall have qualified. Thereafter the successors of each member of said Board of State Tax Commissioners shall be appointed by the Governor, and shall hold office for the term of six years, and until their successors shall have been appointed and qualified. The persons who now constitute the Board of State Tax Commissioners under appointments heretofore made shall continue to hold their office until the expiration of their respective terms. At the expiration of the terms of office of the members of said board, their successors in office, so long as this act shall remain in force, shall be appointed by the Governor, by and with the advice and consent of the Senate. All appointments which are provided to be made by the Governor under this section of this act shall be made while the legislature is in session and not at any other time, except in cases where a vacancy in office shall occur otherwise than by the expiration of the term of office of any member of said board. In case a vacancy in the office occurs otherwise than by ex-

piration of the term, the Governor shall have power to appoint to fill such vacancy at any time, and the person so appointed shall hold office until the next meeting of the legislature after such appointment, and no longer.

The assessment of property for taxation is not a matter of such local concern that the legislature cannot provide for a State board of tax commissioners to supervise and revise the assessments made by the local assessors.—State Tax Commissioners v. Assessors City of Grand Rapids, 124 M. 491.

SEC. 146. Said board shall elect a secretary at a salary not to exceed two thousand dollars per annum. The person so elected shall hold his office during the pleasure of said board, and shall keep a record of all the proceedings of said board, which records with all other papers or proceedings of said board shall be a part of the records of the Auditor General's office, and of which the Auditor General shall be the lawful custodian. The secretary shall devote all his time to the duties of his office, and when said board is not in session, shall perform such duties as may have been assigned him by said board.

Oath of office.

SEC. 147. (Added by Act 154 of 1899.) The members of said board, and the secretary thereof, shall take and subscribe the constitutional oath of office to be filed with the Secretary of State. The members of said board shall receive an annual salary of two thousand five hundred dollars, and shall devote their whole time to the discharge of the duties of their office, and they shall also receive their necessary expenses in the performance of their duties, both to be audited and allowed by the Board of State Auditors, and paid monthly by the State Treasurer out of the general fund.

Salary and expenses of members.

Sessions of board.

SEC. 148. (Added by Act 154 of 1899.) Regular sessions of said board shall be held at the office of said board at the capitol, to be furnished by the Board of State Auditors. The said board and the members thereof, shall have access to all books, papers, documents, statements and accounts on file or of record of [in] any of the departments of State, subject to the rules and regulations of the respective departments relative to the care of the public records. It shall have like access to all books, papers, documents, statements and accounts on file or of record in counties, townships and municipalities. Said board shall have the right to subpoena witnesses upon a subpoena signed by the president of the said board, and attested by the secretary thereof, directed to such witnesses, and which subpoena may be served by any person authorized to serve subpoenas from courts of record in this State, and the attendance of witnesses may be compelled by attachment to be issued by any circuit court in the State upon proper showing that such witness has been properly subpoenaed and has refused to obey such subpoena. The person serving such subpoena shall receive the same compensation now allowed to sheriffs and other officers for serving subpoenas. Said board shall have power to examine witnesses under oath, said oath to be administered by any member of

Shall have access to public records.

Right to subpoena.

Service.

Fees for service.

May examine witnesses.

said board or by the secretary thereof. Said board shall have the right to examine books, papers or accounts of any corporation, firm or individual owning property liable to assessment for taxes, general or specific, under the laws of this State, and any officer or stockholder of any such corporation, any member of any such firm, or any person or persons who shall refuse to permit said inspection, or neglect or fail to appear before said board in response to its subpoena, or testify, as provided for in this section, shall be deemed guilty of a misdemeanor, and shall be punished by a fine not exceeding one thousand dollars, or by imprisonment in the State Prison for a period not exceeding two years, or by both such fine and imprisonment, in the discretion of the court.

Examination
of private and
corporate
records.

Penalty for
refusal to
permit.

Regular ses-
sions of
board.

Special
sessions.

Duties of
board.

Supervision
of assessing
officers.

To secure en-
forcement
of tax law.

To investigate
irregular as-
sessments.

To visit each
county, etc.

SEC. 149. (Added by Act 154 of 1899.) Said board shall hold regular meetings on the first Tuesday of March, June, July, August, September and October in each year, and may hold adjourned sessions as may be deemed necessary by it for the proper performance of the duties devolving upon said board. The chairman may call special sessions of the board whenever and wherever in the State he may deem it advisable so to do, and shall call such special sessions upon the written request of two members.

SEC. 150. (Added by Act 154 of 1899.) It shall be the duty of said board:

1. To have and exercise general supervision over the supervisors and other assessing officers of this State, and to take such measures as will secure the enforcement of the provisions of this act, to the end that all the properties of this State liable to assessment for taxation shall be placed upon the assessment rolls and assessed at their actual cash value.

2. To confer with and advise assessing officers as to their duties under this act, and to institute proper proceedings to enforce the penalties and liabilities provided by law for public officers, officers of corporations and individuals failing to comply with the provisions of this act; to prefer charges to the Governor against assessing and taxation officers who violate the law or fail in the performance of their duties in reference to assessment and taxation, and in the execution of these powers the said board may call upon the Attorney General or any prosecuting attorney in the State to assist said board.

3. To receive complaints as to property liable to taxation that has not been assessed, or has been fraudulently or improperly assessed, and to investigate the same, and to take such proceedings as will correct the irregularity complained of, if found to exist.

4. To see that each county in the State be visited by at least one member of the board as often as once each year, to the end that all complaints concerning the law may be heard; that information concerning its workings may be collected; that all assessing and taxation officers comply with the law, and all violations thereof be punished, and that all proper suggestions as to amendments and changes may be made.

To secure information as to operation of the tax law.

5. To require from any officer in this State, on forms prescribed by said Board of State Tax Commissioners such annual or other reports as shall enable said Board of State Tax Commissioners to ascertain the assessed valuations and equalize valuations of all property listed for taxation throughout the State under this act; the amount of taxes assessed, collected and returned delinquent, and such other matter as the board may require, to the end that it may have complete and statistical information as to the practical operation of this act.

To ascertain valuations and rate of taxation.

6. To inquire into and ascertain the valuation of the properties of corporations paying specific taxes under any of the laws of this State, and to ascertain the actual rate of taxation as based upon the valuation of said properties that is being paid by said corporations, and to this end said board shall require reports from, and make investigations, as to the properties of such corporations in the same manner and to the same extent as if said corporations were paying taxes under this act.

To enquire into revenue systems.

7. To make diligent investigation and inquiry concerning the revenue laws and systems of other states and countries, so far as the same is made known by published reports and statistics, and can be ascertained by correspondence with officers thereof, and with the aid of information thus obtained, together with experience and observation of our own laws, to recommend to the Legislature, at each regular session thereof, such amendments, changes or modifications of our revenue laws as seem proper and necessary to remedy injustice and irregularities in taxation, and to facilitate the assessment and collection of public revenues.

To make recommendations to legislature.

To report to legislature taxes collected, lost, etc.

8. To further report to the Legislature at each regular session thereof, or at such other times as the Legislature may direct, the whole amount of taxes collected in the State for all purposes, classified as to State, county and township and municipal purposes, with the sources thereof; the amount lost; the cause of the loss; the proceedings of said board, and such other matters of information concerning the public revenues as it may deem of public interest.

To report valuation and taxes paid by corporations paying specific taxes.

9. To further report to the legislature at the beginning of the regular sessions, specifically, the true valuation of the properties of corporations paying specific taxes and the rate of taxation actually paid on said valuation and the true valuation of all other properties of the State and the rate of taxation the same are paying, to the end that the legislature shall have the information necessary to rearrange the rate or system of taxation on said properties, so that all taxable properties of the State may be taxed uniformly.

To attend meetings of State Board of Equalization.

10. To be present at each meeting of the State Board of Equalization and furnish such information as said board may require, and that may assist said board in the performance of the duties imposed upon it by law.

A single member of the State Tax Commission may act in reviewing assessments and in making additions to the rolls.—*State Tax Commissioners v. Assessors, City of Grand Rapids, 124 M. 491.*

SEC. 151. (Added by Act 154 of 1899) The Board of State Tax Commissioners shall, on or before the fifteenth day of December in each year, make an annual report to the Governor of this State, setting forth the workings of said commission during the preceding year, and containing the findings and recommendations of said commission in relation to all matters of taxation. The Board of State Auditors shall cause five thousand copies of said annual report to be printed on or before the fifteenth day of January succeeding the making of said report. Three hundred copies of said report shall be placed at the disposal of the State Librarian for distribution and exchange.

Board to make annual report to Governor.

Printing of copies.

SEC. 152. (Added by Act 154 of 1899) After the various assessment rolls required to be made under this act shall have been passed upon by the several boards of review, and prior to the time fixed for equalization and apportionment of State and county taxes, the said several assessment rolls in the State shall be subject to inspection by said Board of State Tax Commissioners or by any member thereof; and in case it shall appear, or be made to appear, to said board that property subject to taxation has been omitted from said roll, or individual assessments have not been made in compliance with law, the said board may issue an order directing the assessor whose assessments or failure to assess is complained against, to appear with his assessment roll at a time and place to be stated in said order, said time to be not less than seven days from the date of issuance of said order, and the place to be at the office of the board of supervisors at the county seat or such other place in said county in which said roll was made, as said board shall deem most convenient for the hearing herein provided. A notice of the time and place that said assessor is ordered to appear with said roll, together with a statement of the persons whose property or whose assessments are to be considered shall be published in a newspaper published at the county seat of said county if there be one; if not in some paper printed in said county if there be any, at least, five days before the time at which said assessor is required to appear, and where practicable personal notice by mail shall be given to said persons prior to said hearing. A copy of said order shall also be served upon the supervisor or assessing officer in whose possession said roll shall be, at least three days before he is required to appear with said roll. The said board or any member thereof shall appear at the time and place mentioned in said order, and the supervisor or assessing officer upon whom said notice shall have been served shall appear also with said assessment roll. The said board or any member thereof, as the case may be, shall then and there hear and determine as to the proper assessment of all property and persons mentioned in said notice, and all persons affected or liable to be affected by the review of said assessments thus provided for may appear and be heard at said hearing. In case said board or the member thereof who shall act in said review, shall determine that the assessments so reviewed are not assessed according to law, he or they

Board may inspect assessment rolls.

May require assessor to appear, etc.

Notice.

Shall hear and determine, etc.

Shall correct assessment in certain cases.

Shall add
omitted prop-
erty to roll.

Shall certify
to action
taken.

Compensa-
tion of
assessor.

shall, in a column provided for that purpose, place opposite said property the true and lawful assessment of the same. As to the property not upon the assessment roll, the said board or member thereof acting in said review, shall place the same upon said assessment roll by proper description, and shall place thereafter, in the proper column, the true cash value of the same. In case of review under the provisions of this section the said board or the member thereof acting in said review shall certify under his hand officially and spread upon said roll a certificate of the day and date at which said assessment roll was reviewed by him, and the changes by him made therein. For appearing with said roll as required herein the supervisor or assessing officer shall receive the same per diem as is received by him in the preparation of his assessment roll, to be presented to and paid by the proper officers of the municipality of which he is the assessing officer, in the manner as his other compensation is paid. The action of said board or member taken as provided in this act shall be final.

The Board of State Tax Commissioners may change and correct the valuation of property made by the board of review, and may add to the assessment roll property omitted therefrom, and it is the duty of the assessor to spread the taxes on the roll according to the valuations as changed by the State Board of Tax Commissioners: Held, that the term "board of review," in Sec. 39, applies to the local board or the State board, as circumstances require, and where the State board had changed the valuations, the taxes should be assessed according to the valuations so changed.—State Tax Commissioners v. Quinn, 125 M. 128.

After the time when the tax roll is made, and placed in the hands of the city treasurer there is no authority in the board to increase or reduce the assessment.—State Tax Comrs. v. Cady, 124 M. 683.

Review of
assessment
under order
of board.

Time and
place.

Notice.

Publication.

Service on
assessor.

Sec. 153. (Added by Act 154 of 1899) In case it shall appear or be made to appear to said board that any assessment roll in the State is so grossly irregular and unlawful assessed that adequate compliance with the law cannot be secured except by a general review of said assessment roll, said board may make and issue an order that said assessment roll shall be subject to general review, and the time and place shall be stated in said order, at which said roll shall be reviewed, and under said order the assessor whose assessment or failure to assess is complained against shall be required to appear with his assessment roll at the time and place thus determined, said time to be not less than fourteen days from the issuance of said order, and the place to be at the office of the board of supervisors at the county seat, or such other place in said county in which said roll was made, as said board shall deem most convenient for the hearing herein provided for. A notice of the time and place that said assessor is required to appear with said roll, together with a statement that said roll will be subject to general review, and that all persons interested therein may be heard at said time, shall be published in a newspaper published at the county seat of said county, if there be one; if not, in some paper printed in said county, if there be any, at least seven days before the time at which said assessor is required to appear. A copy of the order made as aforesaid shall be served upon the supervisor or assessing officer in whose possession said roll shall be, at least three days before he is

required to appear with said roll. The said board or any member thereof shall appear at the time and place mentioned in said order and the supervisor or assessing officer upon whom said notice shall have been served shall appear also with said assessment roll. The said board or any member thereof, as the case may be, shall then and there review said assessment roll and may hear and determine complaints as to the said assessment roll and the assessments of property therein, and he or they shall have power to determine in accordance with law, the amount at which said assessments shall be placed, and to change the same, so that said assessments may comply with the law. Also to place upon said roll property omitted therefrom, in the same manner as provided in the last preceding section. The determination of said board or member thereof acting in said review shall place in a column provided for that purpose, and shall proceed in all respects as provided in the last preceding section, and the supervisor or assessing officer shall receive the same compensation as provided in said section.

Review by board.

Board to change assessments. To add omitted property.

Compensation of assessor.

SEC. 154. (Added by Act 154 of 1899) If it shall be made to appear to said board at any time after the last meeting of the State Board of Equalization that any property liable to taxation has not been assessed for any previous year as herein-after provided, the said board shall report the same to the proper assessing officer and the same shall be listed for taxation upon the next assessment roll that shall be made, and shall be valued as all other property. The said board shall further certify to the board of supervisors of the several counties at the October session thereof, next after said property shall be then listed for taxation, the description of said property and the several years that the same has been liable for, and escaped taxation, and said board of supervisors shall ascertain the rate of taxation for said several years and shall order the taxes for said years to be spread against said property upon the valuation for the then current year, and the same shall be so spread in a column provided for that purpose, and it shall constitute a charge against the person and property, and be collected as other taxes: *Provided, however,* That this provision shall not be deemed to relate back prior to the going into effect of this section: *And provided further,* That in case of change in ownership of the property omitted said taxes shall not be spread against said property prior to the last change of ownership.

Report of property omitted in prior years.

Certification to board of supervisors.

Proviso.

SEC. 155. (Added by Act 46, Laws 1901) It shall be unlawful for any person, co-partnership, company or corporation to cut or attempt to cut any standing timber growing upon lands in this State upon which the taxes remain unpaid from and after the tenth day of January succeeding that at which the tax was assessed, and before said lands are bid off to the State for the non-payment of taxes, or to remove any timber, wood, logs or buildings therefrom.

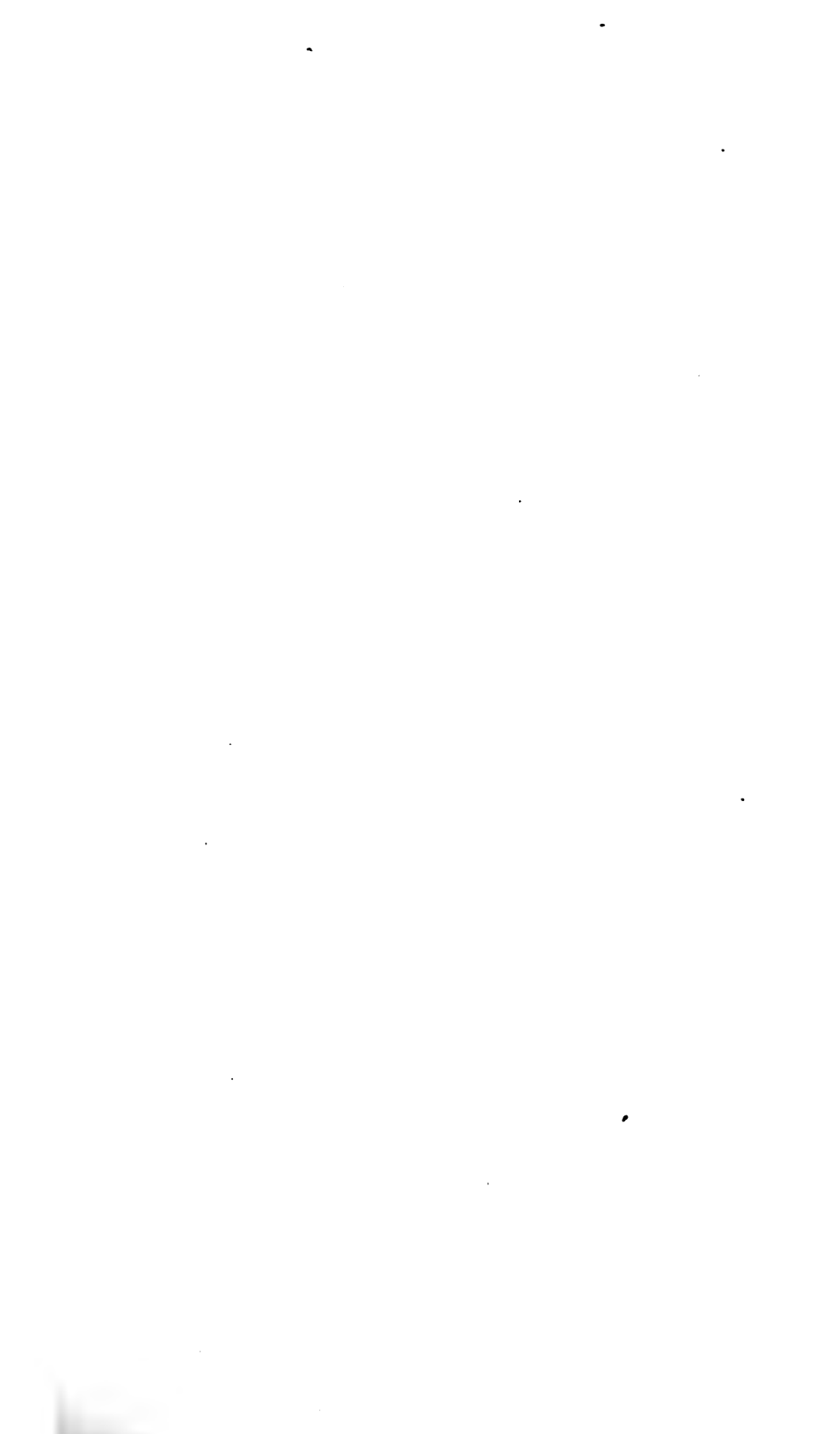
SEC. 156. (Added Act 46, Laws 1901) If any person, co-

partnership, company or corporation shall cut any standing timber growing upon any lands in this State upon which the taxes remain unpaid, after the same have become due and have been returned to the county treasurer, and before said lands are sold for the non-payment of taxes, or if any person, co-partnership, company or corporation shall remove any timber, wood or logs, or tear down or remove any buildings from any such lands within the time above mentioned, it shall be the duty of the county treasurer of the county where such lands are situated to issue a warrant under his hand and seal in the name of the people of the State of Michigan, directed to the sheriff of the county in which such lands are situated, giving therein a description of such lands, the amount of such taxes due and remaining unpaid, with interest and charges thereon as provided by law, commanding such sheriff forthwith to seize such timber, logs, wood or buildings, or in case such buildings have been torn down, the lumber and other building material of the same, wherever the same may be found in any county in this State, and to sell the same or a sufficient quantity thereof to satisfy such taxes, with interest and charges thereon, and the cost of such seizure and sale. The sheriff shall receive such warrant and execute the same as therein directed, as in the case of levy and sale on execution, and make due return thereof with his doings thereon to the county treasurer within thirty days after the receipt of the same, and pay over all moneys collected thereon to the county treasurer, who shall apply the amount so collected to the payment of taxes on the lands described in said warrant, together with the interest and charges thereon, and the costs of such seizure and sale. In case the moneys received from any such sale shall exceed the amount necessary to pay all such taxes due and payable, together with interest and charges thereon, and the costs of such seizure and sale, all sums so received, over and above the amount necessary to pay such taxes, together with the interest and charges thereon and the costs of such seizure and sale, shall be held by the county treasurer subject to the order of the person, co-partnership, company or corporation owning said lands.

SEC. 157. (Added by Act 46, Laws 1901) When any person, co-partnership, company or corporation shall neglect or refuse to pay any tax assessed on the lands of such person, co-partnership, company or corporation after such taxes shall have become due and have been returned to the county treasurer, and before said lands are sold for the non-payment of taxes, the county treasurer shall make application for and be entitled to an injunction to restrain waste on any of such lands upon which the taxes shall remain unpaid, and to prevent the cutting of any timber standing or growing thereon or the removal of any timber, wood or logs, or the tearing down or removing of any buildings therefrom. Any circuit judge or circuit court commissioner of the county in which such lands are situated may

on application of such county treasurer make an order restraining any person, co-partnership, company or corporation from committing waste on any such lands by the cutting of any timber standing or growing thereon or the removal of any timber, wood or logs, or the tearing down or removal of any buildings therefrom. The right of the county treasurer to a writ of injunction shall not be lost or impaired by reason of any failure or neglect on the part of the township treasurer or other collecting officer to collect the above unpaid taxes.

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1895

STATE OF MICHIGAN

GENERAL TAX LAW

1893-1895

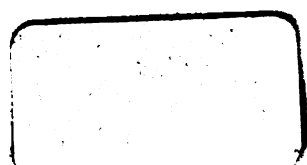
ACT 206, LAWS OF 1893, AS AMENDED BY ACTS 25, 154, 162
AND 229, LAWS OF 1895

PUBLISHED UNDER THE SUPERVISION OF THE AUDITOR GENERAL.



BY AUTHORITY

LANSING
ROBERT SMITH & CO., STATE PRINTERS AND BINDERS
1895



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1896

Act 206 of 1893, approved June 1, 1893, was ordered to take effect June 12, 1893.

Act 25 of 1895 (amending section 9), approved March 20, 1895, was given immediate effect.

Act 154 of 1895 (amending sections 62, 71, 73, 74, 84, 87, 98, 106, 113, 120, 124, 127 and 133), approved May 18, 1895, took effect August 30, 1895.

Act 162 of 1895 (amending section 66), approved May 18, 1895, took effect August 30, 1895.

Act 229 of 1895 (amending sections 11 and 47), approved May 31, 1895, was given immediate effect.

GENERAL TAX LAW

OF THE

STATE OF MICHIGAN.

(Act 206, Laws of 1893, as amended by Acts 25, 154, 163 and 229, Laws of 1905.)

AN ACT to provide for the assessment of property and the levy and collection of taxes thereon, and for the collection of taxes heretofore and hereafter levied; making such taxes a lien on the lands taxed, establishing and continuing such lien, providing for the sale and conveyance of lands delinquent for taxes, and for the inspection and disposition of lands bid off to the State and not redeemed or purchased; and to repeal act No. 200 of the Public Acts of 1891, and all other acts and parts of acts in anywise contravening any of the provisions of this act.

SECTION 1. *The People of the State of Michigan enact,* Property subject to taxation.
That all property, real and personal, within the jurisdiction of this State, not expressly exempted, shall be subject to taxation.

OF REAL PROPERTY.

SEC. 2. For the purpose of taxation, real property shall include all lands within the State, and all buildings and fixtures thereon, and appurtenances thereto, except such as are expressly exempted by law. Real property defined.

SEC. 3. Real property shall be assessed in the township or place where situated, to the owner if known, and also to the occupant, if any; if the owner be not known, and there be an occupant, then to such occupant, and either or both shall be liable for the taxes on said property, and if there be no owner or occupant known, then as unknown. A trustee, guardian, executor, administrator, Where and to whom assessed.

assignee or agent, having control or possession] of real property, may be treated as the owner. The real property which belonged to a person deceased, not being in control of an executor or administrator, may be assessed to his heirs or devisees jointly, without naming them, until they shall have given notice of their respective names to the supervisor, and of the division of the estate.

Homestead and
part paid State
lands.

SEC. 4. All licensed homestead lands, the fee of which is in the State, when the licensee is entitled to make final proof to obtain a patent for the same, shall be assessed and treated as real property. The interest in land of any person holding part paid certificates for the purchase of any State lands shall be assessed separate from other property. The assessment shall describe the land and shall state therein that the title is in the State. The taxes, if not paid to the township treasurer, shall be returned and collected as hereinafter provided.

Corporation
realty.

SEC. 5. The real property of a corporation shall be assessed to the name of the corporation as to an individual, if known, in the township or place where situated, or it may be assessed to the occupant or to any authorized agent if so requested of the supervisor.

Undivided
interests.

SEC. 6. Undivided interests in lands owned by tenants in common, not being co-partners, may be assessed to the owners thereof, if so requested, and in the discretion of the supervisor.

REAL ESTATE EXEMPTIONS.

Exemptions.

SEC. 7. The following real property shall be exempt from taxation:

U. S. property.

1. All public property belonging to the United States.

State property.

2. All public property belonging to the State of Michigan, except licensed homestead lands, part paid lands held under certificates, and lands purchased at tax sales, and still held by the State.

Municipal
property.

3. Lands owned by any county, township, city, village or school district and buildings thereon, used for public purposes.

Realty of char-
itable, etc., as-
sociations.

4. Such real estate as shall be owned and occupied by library, benevolent, charitable, educational and scientific institutions, incorporated under the laws of this State, with the buildings and other property thereon, while occupied by them solely for the purposes for which they were incorporated: *Provided*, That such exemption shall not apply to fraternal or secret societies, but all charitable homes of such societies shall be exempt.

Proviso.

Churches and
parsonages.

5. All houses of public worship, with the land on which they stand, the furniture therein and all rights in the pews, and also any parsonage owned by any religious society of this State and occupied as such.

Cemeteries.

6. All lands used exclusively as burial grounds, and the rights of burial therein, and the tombs and monu-

ments therein, while reserved and in use for that purpose: *Provided*, That the stock of any corporation owning such burial grounds shall not be exempt. Proviso.

7. The real and personal property of persons who, in the opinion of the supervisor and board of review, by reason of poverty, are unable to contribute toward the public charges. Poor persons.

8. The real property of corporations exempt under the laws of this State, by reason of paying specific taxes in lieu of all other taxes for the support of the State: *Provided*, The track, right of way, depot grounds and buildings, machine shops, rolling stock, and all other property necessarily used in operating any railroad in this State belonging to any railroad company, shall henceforth remain exempt from taxation for any purpose, except that the same shall be subject to special assessments for local improvements in cities and villages, and all lands owned or claimed by any such railroad company not adjoining the track of such company, shall be subject to all taxes. Corporations paying specific taxes.
Proviso as to railroads.

9. Property owned exclusively by the State agricultural society, or any county or district agricultural society, and used by any such society exclusively for fair purposes. Agricultural societies.

10. All land dedicated to the public and actually used as a park, and any monument ground or any armory belonging to any military organization, and not used for gain or any other purposes. Parks, monument grounds, armories.

OF PERSONAL PROPERTY.

SEC. 8. For the purposes of taxation, personal property shall include: Personal property defined.

1. All moneys. Moneys.

2. All annuities and royalties. Annuities, royalties.

3. All goods, chattels and effects within the State. Goods, chattels.

4. All ships, boats and vessels and their appurtenances belonging to inhabitants of this State, whether at home or abroad. Boats.

5. All goods, chattels and effects belonging to inhabitants of this State, situate without this State, except that property actually and permanently invested in business in another State shall not be included. Goods situate without State.

6. All credits of every kind belonging to inhabitants of this State, over and above the amounts respectively owed by them whether such indebtedness is due from individuals or from corporations, public or private, and whether such debtors reside within or without the State. Credits.

7. All shares in corporations organized under the laws of this State, when the property of such corporations is not exempt, or is not taxable to itself; or when the personal property is not taxed. Shares in corporations.

8. All shares in banks organized within this State, under the laws of this State or of the United States, at Bank shares.

their cash value, after deducting the assessed value of real property owned by and assessed to such banks.

Shares in foreign corporations.

9. All shares in foreign corporations, except national banks, owned by citizens of this State.

Interest in public lands.

10. All interests owned by individuals in lands, the fee of which is in this State or the United States, except as herein otherwise provided.

Improvements on leased lands.

11. All buildings and improvements situate upon leased lands, except where the value of the real property is also assessed to the lessee or owner of such buildings and improvements.

Public vaults.

12. Tombs or vaults built within any burial grounds, and kept for hire or rent, in whole or in part, and the stock of any corporation or association owning any such tombs, vaults or burial grounds.

Omnibus clause.

13. All other personal property not herein enumerated, and not especially exempted by law.

Nursery stock.

14. All nursery stock and trees while growing on any land or in preparation for replanting or in transit.

Produce.

15. All produce, seeds and grain on hand, stored in warehouse or mill, and in transit, owned within this State.

Lighting and water companies.

16. The personal property of all gas and coke companies, natural gas companies, electric light companies, water-works companies and hydraulic companies, to be assessed in the township, village or city where the principal works are located. The mains, pipes and wires of such companies laid in or along roads, lanes, streets or alleys shall be assessed as personal property in the township, village, or city where the same are laid or placed. The personal property of street railroad, plank road, cable or electric railroad or transportation companies, bridge companies, and all other companies not required to pay a specific tax to the State in lieu of all other taxes, shall be assessed in the township, village or city where its principal business office is situated, and the track, road or bridge of any such company shall be held to be personal property and may be assessed in the township, village, or city where the same is located, used or laid.

Transportation, road and bridge companies.

PERSONAL PROPERTY EXEMPTED.

Exemptions.

SEC. 9.* The following personal property shall be exempt from taxation, to wit:

Charitable societies.

First, The personal property of benevolent, charitable, educational and scientific institutions, incorporated under the laws of this State: *Provided*, That such exemptions shall not apply to secret or fraternal societies, but the personal property of all charitable homes of such societies shall be exempt;

Public libraries.

Second, Of all library associations, circulating libraries, libraries of reference, and reading rooms, owned or supported by the public, and not used for gain;

* As amended by Act 25, 1895.

*Third,** Of all posts of the grand army of the republic, sons of veterans, union veterans unions, and of the women's relief corps connected therewith, of all young men's christian associations, and of women's christian temperance union associations, young people's christian unions, and other similar associations; G. A. R., Y. M. C. A., etc.

Fourth, Pensions receivable from the United States; Pensions.

Fifth, So much of the debts due or to become due as shall equal the amount of *bona fide* and unconditional debts by the person owing; Debts.

Sixth, The property of Indians who are not citizens; Indians.

Seventh, The library, family pictures, school books, one sewing machine used and owned by each individual or family, and wearing apparel of every individual; Library, sewing machine, wearing apparel, etc.

Eighth, Household furniture, provisions and fuel to the value of five hundred dollars to each household: *Provided,* No person paying board shall be deemed a householder; Furniture, provisions and fuel.
 Provide.

Ninth, The working tools of any mechanic, not to exceed in value the sum of one hundred dollars; Mechanics' tools.

Tenth, Of all fire engines and other implements used in extinguishing fires, owned or used by any organized or independent fire company; Fire apparatus.

Eleventh, All mules, horses and cattle not over one year old, all sheep and swine not over six months old, and all domesticated birds; Young live stock.

*Twelfth,** Personal property owned and used by any householder, in connection with his business of the value of two hundred dollars. Personal property used in business.

OF THE ASSESSMENT.

SEC. 10. An assessment of all the property in the State, liable to taxation, shall be made annually in the several townships, villages and cities thereof by the supervisors of the several townships and wards, or in villages and cities where provision is made in the acts of incorporation or charter for some other assessing officer, then by such assessing officer, as hereinafter provided. Annual assessment by supervisors.

SEC. 11.† All corporate property, except where some other provision is made by law, shall be assessed to the corporation as to a natural person, in the name of the corporation. The place where its office is located in its articles of incorporation shall be deemed its residence: *Provided,* Its business is actually transacted at such office; but if it shall establish its principal office in any other place than the place named in its articles of incorporation, then the place where it transacts its principal business shall be deemed its residence for all the purposes of this act. If there be no principal office in this State, then at the place in this State where such corporation or agent transacts business: *Provided further,* That all the personal Corporate property, how and where assessed.
 Provide—marine property.

* As amended by Act 25, 1895.

† As amended by Act 229, 1896.

Property paying
specific taxes.

Insurance com-
panies.

Copartnership
property.

Personal prop-
erty, where
assessed.

Exceptions.

Non-residents'
property.

Proviso.

Animals.

Bank shares.

Proviso.

property of all corporations heretofore or hereafter organized under the laws of this State for the purpose of engaging in maritime commerce or navigation shall be assessed only in the city, village or township which is stated in their original articles of association or in any amendment thereof heretofore or hereafter made, to be the location of their general office for business. The property of corporations paying specific taxes shall be exempt, as to the property covered by such taxation, except when otherwise provided by law. All other property of such corporation shall be taxed under this act. In computing the taxable property of insurance companies organized under the laws of this State, the value of the real property on which a company pays taxes shall be deducted from its net assets above liabilities, as determined and shown by the last report of the Commissioner of Insurance, and the remainder shall be the amount of personal property for which the company shall be assessed.

SEC. 12. For the purpose of assessing property and collecting taxes, a copartnership shall be treated as an individual, and whenever the name of the owner or occupant of property is required to be entered upon the assessment roll, if such property is owned or occupied by a copartnership, the firm name shall be used. A copartnership shall be deemed to reside in the township where its business is principally carried on. Each partner shall be liable for the whole tax.

SEC. 13. All personal property, except as hereinafter provided, shall be assessed to the owner in the township in which he is an inhabitant, on the second Monday of April, of the year for which the assessment is made.

SEC. 14. The excepted cases referred to in the preceding section are as follows, viz.:

1. All goods and chattels situate in some township other than where the owner resides shall be assessed in the township where situate, and not elsewhere, if the owner or person having control thereof hires or occupies a store, mill, dockyard, piling ground, place for sale of property, shop, office, mine, farm, place of storage, manufactory or warehouse therein, for use in connection with such goods and chattels: *Provided*, That the procuring any such property to be manufactured upon contract shall be deemed the hiring a mill or manufactory within the meaning of this section.

2. All animals kept throughout the year in some township other than where the owner resides shall be assessed to such owner, or the person in possession, in the township where kept.

3. All shares in banks shall be assessed to their owners in the township, village or city where the bank is located: *Provided*, That the shares owned by a person residing in the county where the bank is located shall be assessed in the township or city where he resides.

4. The personal property of minors under guardianship shall be assessed to the guardian in the township where he resides, and the personal property of every other person under guardianship shall be assessed to the guardian in the township where the ward resides. Property of minors, etc.

5. The personal property belonging to the estates of deceased persons, in the hands of executors or administrators, shall be assessed to them in the township and in the school district where the deceased last dwelt, until they shall give notice that the estate has been distributed to the parties interested. If such deceased was a non-resident of the State such property shall be assessed in the township where situated, to such executors or administrators, or to the person in possession. Estates of deceased persons.

6. Personal property under the control of a trustee or agent, whether a corporation or a natural person, may be assessed to such trustee or agent in the township where he resides, except as otherwise provided. Personal property mortgaged or pledged shall be deemed the property of the person in possession thereof, and may be assessed to him. Assessment to trustee, agent or pledgee.

7. All personal property of any person situate upon, also all buildings situate and being upon the lands of the United States, or of this State, shall be deemed personal property for the purposes of taxation and assessment, and shall be assessed as personal property, to the owner or occupant thereof, in the city, village or township in which such lands are situated, and such buildings shall be subject to sale for taxes in the same manner as herein provided for the sale of personal property: *Provided, however,* Property on public lands. It shall not be necessary to remove any such buildings for the purpose of sale. Proviso.

8. Personal property of non-residents of the State, and all forest products owned by residents or non-residents, or estates of deceased persons, shall be assessed in the township or ward where the same may be, to the person having control of the premises, store, mill, dock, yard, piling ground, place of storage, or warehouse where such property is situated in such township, on the second Monday of April of the year when the assessment is made, except that where such property is in transit to some place within the State, it shall be assessed in such place. Non-residents. Forest products.

Sec. 15. All forest products in transit on the second Monday in April in each year and thereafter found in the waters or streams of this State or on the banks or shores of any lake, pond or stream of this State, when the same is not at the place where it is to be manufactured, shall be held to have a place of destination at the sorting grounds of the rafting and driving agents or booming company nearest the mouth of the stream, unless the contrary shall be made to appear by the owner or party having the same in charge: *Provided,* That all lumber, logs, timber, Logs, etc., in transit. Proviso,

lath, pickets, shingles, posts, cordwood, tanbark, telegraph or telephone poles, or railroad ties, that may be piled or left in any yard, railroad reserve, or in any shed, shall not be deemed in transit, but shall be assessed to the person or corporation having control of the yard, railroad reserve, shed or place of storage where the same may be situated at the time provided by law for taking such assessment.

Supervisor to
view logs, etc.

SEC. 16. It shall be the duty of the supervisor of the township in which any such saw logs, timber, railroad ties, telegraph poles or tanbark, cut prior to the time of taking the annual assessment, may be banked or piled, or that may be in transit, to ascertain the amount of such property which may be or may have been in his township or assessment district at any time during the month of April in each year, liable to assessment, by actual view of the same, as far as practicable, and to fix the value of such property, and to assess the same to the owner thereof as herein provided.

Location of per-
sonal prop-
erty.

SEC. 17. No change of location or sale of any personal property, after the first day of May in any one year shall affect the assessment made in such year. As between school districts and road districts the location of personal property for taxation shall be determined by the same rules as between assessment districts: *Provided*, That whenever the owner or occupant shall reside upon contiguous tracts or parcels of land which lie in two or more assessment districts, then the personal property of such owner or occupant shall be assessed in the assessment district where such owner or occupant resides at the time the assessment is made.

ASSESSMENT, HOW MADE.

Duties of
assessor.

SEC. 18. It shall be the duty of each supervisor or other assessing officer as soon as possible after entering upon the duties of his office, or as may be directed and required by the provisions of any acts of incorporation of any city or village making special provision for such assessment, to ascertain the taxable property of his assessing district, and the persons to whom it should be assessed, and their residences. For this purpose he may require every person of full age and sound mind, who the supervisor or assessor believes has property which is not exempt from taxation, to make and subscribe to a true and correct written statement under oath, administered by such supervisor or assessing officer, or other officer qualified to administer oaths under the laws of this State, of all the taxable property of such person, firm or corporation, whether owned by him or it, or held for the use of another, and it shall be the duty of every such person, firm or corporation, to make such statement under the following form of oath, duly administered by the supervisor or assessing officer:

May require
sworn state-
ment.

STATE OF MICHIGAN, }
County of..... } ss.

Form of oath.

....., being duly sworn, deposes and says, that the above is a full and true statement of all the taxable property owned by him, liable to assessment in this assessing district.

[Signed].....

Dated this.....day of.....A. D. 18....

Subscribed and sworn to before me this.....day of.....A. D. 18....

.....Supervisor (or assessor).
Provided, That any person having no property which is *Provido*, not exempt, if required to take an oath by the supervisor or assessor, may take the following oath:

STATE OF MICHIGAN, }
County of..... } ss.

No property.

....., being duly sworn, deposes and says, that he has no property or effects liable to taxation.

Dated this.....day of.....A. D. 18....

[Signed].....

Subscribed and sworn to before me this.....day of.....A. D. 18....

.....Supervisor (or assessor).

SEC. 19. In taking such assessment the supervisor or assessor shall use one of the following blank forms, as *Assessors' blanks*, may be necessary:

Property of Bankers and Brokers.—The principal or *Bankers and brokers*, accounting officer of every bank whose capital is not represented by shares of stock, and every private banker, broker or stock jobber shall make out and deliver to the assessor a statement which he shall verify by oath, showing—

1. The amount of money on hand and in transit. *Money.*
2. The amount of funds in the hands of other bankers, brokers, or other persons, subject to draft. *Funds subject to draft.*
3. The amount of checks and other cash items not included in either of the preceding items. *Checks, etc.*
4. The amount of bills receivable, discounted or purchased, and other credits due or to become due. *Bills receivable.*
5. The amount of bonds and stocks of every kind (except United States bonds) and shares of capital stock of corporations or companies held as an investment or in any way representing assets. *Bonds and stocks.*
6. All other property appertaining to said business other than real estate. *Other property.*
7. The amount of all deposits made with them by other parties. *Deposits.*
8. The amount of all accounts payable, other than current deposit accounts. *Accounts*

**May
sworn
men**

...and location of the company, corporation
...of the capital stock authorized and
...which the same is divided.
...of capital actually paid in.
...of the stock, or if they be
...the actual value of the shares of
...the actual value of the personal property,
...of all the personal property,
...as far as practicable.
...indebtedness, except
...from such
...or betterment
...of all real property
...and the balance
...to personal
...to be paid

amount of the fifth item, and the balance, if any, assessed as personal.

Vessel and Marine Property.—The president, secretary or principal owner of all navigation or transportation companies, and each and every owner of any vessel, steamboat, wharf boat, barge or water craft, shall make out and deliver to the assessor a sworn statement setting forth:

1. The name of the company. Company name.
2. The location of its principal office. Location.
3. The amount of capital stock paid in. Capital.
4. The cash value of such stock. Value of stock.
5. The name of each and every boat or vessel owned by such company or individual, with its insurance rate and value. Name and value of boats.
6. The value of all other personal property used and belonging therewith or thereto. Personal property.
7. The actual *bona fide* indebtedness upon every such boat or vessel separately. Indebtedness.
8. The value of all real property owned by such company or person, with the description of the same, if in his assessing district. Real estate.
9. The value of all franchises, slips or docks owned or used by such company or person. Franchises, docks, etc.

The actual value of all such property after deducting the amount of the seventh item shall be deemed the assessable value of such property. Manner of assessment.

In case of the refusal of the president, secretary, principal accounting officer or owner hereinbefore mentioned to make the statement or statements hereinbefore recited and required, the prosecuting attorney shall cause such person, on complaint of such assessing officer, to appear forthwith before a circuit court commissioner, who is hereby authorized to issue summons therefor and to order its service and to compel the attendance of said officer or person in obedience to such summons, and to examine them under oath, and make such investigation at the expense of such bank, corporation or person as may enable such commissioner and assessing officer to obtain the information provided for in this section. Examination of persons refusing to make statement.

For General Purposes.—Every owner of property liable to taxation under the provisions of this act, being of full age and sound mind, who is a resident of this State, shall make out and deliver to the supervisor or assessor on demand, a sworn statement of all the property owned or held by him, as follows: Sworn statement of property required.

REAL PROPERTY.

An accurate description of each parcel of land, with the number of acres contained therein. Reality.

Real estate.	9. The description and value of all real estate owned by him or them.
Manner of assessment.	The aggregate amounts of the seventh and eighth items shall be deducted from the aggregate amounts of the first, second, third and fourth items, and the remainder, if any, shall be assessed as moneys. The amount of the fifth item shall be assessed as stocks and bonds, and the sixth item shall be assessed the same as other similar property, and the assessor shall make a separate entry of each of these amounts (separate from the assessment of real estate) and the whole shall make up the aggregate personal assessment of such person, party or corporation.
Pawnbrokers.	<i>For Pawnbrokers.</i> —Every person or company engaged in the business of receiving property in pledge or as security for money or other consideration or thing advanced to pawnor or pledger, shall be held to be a pawnbroker and shall be required to make a statement and return under oath, reciting:
Stock in trade.	1. The value of all stock in trade actually owned by him or them and the true cash value thereof.
Pledges.	2. The amount and value of all property held in pawn for any pawnor, pledger or customer.
Amount loaned.	3. The aggregate amount of money consideration or value paid and advanced by such pawnbroker thereon.
Value of pledges.	And the amount of the true cash value of all such property, less the amount of the consideration or value paid, shall be assessed as the property of such person or corporation.
Companies.	<i>Property of Companies.</i> —The president, secretary or principal accounting officer of any company or association, incorporated or unincorporated, except railroad, insurance and telegraph companies and banking corporations, the taxation of which is specifically provided for by law, shall make out and deliver to the assessor a sworn statement setting forth the following:
Name, etc.	1. The name and location of the company, corporation or association.
Capital stock.	2. The amount of the capital stock authorized and the number of shares into which the same is divided.
Actual capital.	3. The amount of capital actually paid in.
Value of stock.	4. The market value of the stock, or if they have no market value then the actual value of the shares of stock.
Personal property.	5. The cash value of all its personal property, giving each kind separately as far as practicable.
Indebtedness.	6. The total of all <i>bona fide</i> indebtedness, except indebtedness for current expenses, excluding from such expenses all amounts paid for the purchase or betterment of said property.
Real property.	7. The description and value of all real property.
Manner of assessment.	The amount of the seventh item shall be deducted from the amount of the fourth item, and the balance, if any, assessed as the cash value of the personal estate. The amount of the sixth item shall be deducted from the

amount of the fifth item, and the balance, if any, assessed as personal.

Vessel and Marine Property.—The president, secretary or principal owner of all navigation or transportation companies, and each and every owner of any vessel, steamboat, wharf boat, barge or water craft, shall make out and deliver to the assessor a sworn statement setting forth:

- | | |
|--|--------------------------|
| 1. The name of the company. | Company name. |
| 2. The location of its principal office. | Location. |
| 3. The amount of capital stock paid in. | Capital. |
| 4. The cash value of such stock. | Value of stock. |
| 5. The name of each and every boat or vessel owned by such company or individual, with its insurance rate and value. | Name and value of boats. |
| 6. The value of all other personal property used and belonging therewith or thereto. | Personal property. |
| 7. The actual <i>bona fide</i> indebtedness upon every such boat or vessel separately. | Indebtedness. |
| 8. The value of all real property owned by such company or person, with the description of the same, if in his assessing district. | Real estate. |
| 9. The value of all franchises, slips or docks owned or used by such company or person. | Franchises, docks, etc. |

The actual value of all such property after deducting the amount of the seventh item shall be deemed the assessable value of such property.

In case of the refusal of the president, secretary, principal accounting officer or owner hereinbefore mentioned to make the statement or statements hereinbefore recited and required, the prosecuting attorney shall cause such person, on complaint of such assessing officer, to appear forthwith before a circuit court commissioner, who is hereby authorized to issue summons therefor and to order its service and to compel the attendance of said officer or person in obedience to such summons, and to examine them under oath, and make such investigation at the expense of such bank, corporation or person as may enable such commissioner and assessing officer to obtain the information provided for in this section.

For General Purposes.—Every owner of property liable to taxation under the provisions of this act, being of full age and sound mind, who is a resident of this State, shall make out and deliver to the supervisor or assessor on demand, a sworn statement of all the property owned or held by him, as follows:

REAL PROPERTY.

An accurate description of each parcel of land, with the number of acres contained therein.

PERSONAL PROPERTY—CREDITS.

Annuities,
royalties.
Credits.

1. All annuities and royalties.

2. All credits of every kind owing to such person whether such indebtedness is due from individuals or from corporations, public or private, and whether debtors reside within or without this State, including all deposits in banks or with other corporations or individuals; together with a statement of any part thereof that is secured by real estate mortgage on lands situated in some other state.

Indebtedness.

3. All *bona fide* indebtedness, owing by such person, giving an itemized statement in detail, how secured, and to whom owing, and the residence of such creditors and the amount due each, provided he desires to have the same deducted from his credits.

PERSONAL PROPERTY—CHATTELS.

Bank shares.

1. All shares in banks organized in this State under any law of this State or of the United States, and their cash value after deducting the value of the real estate taxed to banks.

Foreign stock.

2. All shares in foreign corporations, except national banks, and their cash value.

Shares in Michigan companies.

3. All shares in other corporations organized under the laws of this State when the property of such corporation is not exempt, or is not taxable to itself, and their cash value.

Moneys.

4. All moneys.

Jewelry.

5. The value of all gold and silver plate, watches, diamonds and jewelry.

Furniture.

6. The value of all household furniture, over and above exemptions.

Billiard tables,
etc.

7. The number and value of all billiard tables and other personal property used in connection therewith, and all other similar property owned or in possession by him.

Patent rights.

8. All patent rights and their value.

Animals.

9. The number and kinds of domestic animals not exempt, and their value.

Carriages, etc.

10. All carriages and other vehicles, and sleighs kept for pleasure or hire, and their value.

Tools.

11. All mechanical and agricultural implements and tools, and their value.

Machinery.

12. All machinery not affixed to real property, and its value.

Boats.

13. All ships, boats and vessels, whether at home or abroad, and their value.

Merchandise.

14. All merchandise and stock in trade, including grain in elevators, and its value.

Logs, lumber,
etc.

15. All logs, timber, lumber, posts and ties, and their value, where the same is situate on the second Monday in April, as near as may be, and the distinctive marks thereon, if any, and place of destination in this State.

16. All other goods, chattels and personal property not heretofore specifically mentioned, and their value, except property specifically exempt from taxation. Other property.

17. All goods and chattels which are exempt from taxation. Exemptions.

18. All moneys or other personal property held as assignee, attorney, executor, guardian or agent, liable to taxation under the laws of this State. Property in trust.

19. The number of dogs of all kinds over six months old.* Dogs.

20. The value of all elevators, warehouses and improvements on lands, the title to which is vested in any railroad corporation, and the value of the contents. Improvements on R. R. lands.

SEC. 20. The supervisor or assessor shall not accept any of the statements herein above required as final or sufficient when such statement is not properly subscribed and sworn to, but shall preserve the same as in other cases, and such statement may be used in making the assessment and as evidence in any proceeding which may arise respecting the making of the assessment of the party furnishing such statement. Imperfect statements.

SEC. 21. In every case when any person shall willfully neglect or refuse to make out and deliver a true and correct sworn statement under oath administered by the supervisor or assessing officer or other officer as required by this act, said person shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be subject to a fine of not to exceed one hundred dollars, which shall be paid into the county treasury, or not to exceed thirty days in the county jail, or both such fine and imprisonment in the discretion of the court, and it shall be the duty of the supervisor or assessing officer, whenever he is satisfied that any person liable to make out such assessment statement is justly liable to such penalty, to report the case to the prosecuting attorney of the county, and make the proper complaint for such prosecution: *Provided*, That absence from the township during the time for taking the assessment, without design to avoid assessment, or sickness during such period shall be considered a defense to such prosecution. Willful neglect. Penalty. Duty of assessor. Proviso.

SEC. 22. If the supervisor or assessing officer shall be satisfied that any statement so made is incorrect, or if by reason of absence or other sufficient cause said sworn statement cannot be obtained from the person whose property is to be assessed, said supervisor or assessing officer is hereby authorized and required to examine on oath any other person or persons whom he may have good reason to believe and does believe has knowledge of the amount or value of any property owned or held by such person so neglecting or refusing or omitting to be examined, or to furnish a statement; and such supervisor or assessing Assessor may secure other testimony.

* Act 179 of 1895 makes male dogs over three months old and female dogs three months old assessable.

officer is hereby authorized to set down and assess to such person so entitled to be assessed, such amount of personal property as he may deem reasonable and just.

Statements to be
presented to
board of review.

Final disposition
of statements.

Unlawful use of
statement.

SEC. 28. All the statements herein required to be made and received by the supervisor or assessor shall be filed by him, and shall be presented to the board of review hereinafter provided for, or provided for in any act incorporating any town, village or city, for the use of said board, and after the assessment is reviewed and completed by such board of review, all of the statements shall be deposited in the office of the township or city clerk, as the case may be, and shall be preserved until after the next assessment is made and completed, after which they may be destroyed upon the order of the township board or city or village council, but no such statement shall be used for any other purpose except the making of an assessment for taxes as herein provided, or for enforcing the provisions of this act, and any officer or person who shall make or allow to be made, willfully or knowingly, any other or unlawful use of any such statement, shall be liable to the person making such statement for all damages resulting from such unauthorized or unlawful use of such statement.

OF THE ASSESSMENT ROLL.

Assessment roll.

How made.

Property as-
sessed to agent,
etc.

SEC. 24. On or before the third Monday of May in each year, the supervisor or assessor shall make and complete an assessment roll, upon which he shall set down the name of every person liable to be taxed in his township or assessment district, with a full description of all the real property therein liable to be taxed. If the name of the owner or occupant of any such tract or parcel of real property is known, he shall enter the name of such owner or occupant as in this act provided opposite to the description thereof; in all other cases the real property described upon such roll shall be assessed as owner unknown. Each description shall show as near as may be the number of acres contained in it, as determined by the supervisor. It shall not be necessary for the assessment roll to specify the quantity of land comprised in any town, city or village lot. The supervisor shall estimate, according to his best information and judgment, the true cash value of every parcel of real property and set the same down opposite such parcel. He shall also estimate the true cash value of all the personal property of each person, and set the same down opposite the name of such person. In determining the property to be assessed and in estimating such value, he shall not be bound to follow the statements of any person but shall exercise his best judgment. Property assessed to one other than the owner shall be assessed separate from his property and shall show in what capacity it is assessed to him, whether as agent, guardian or otherwise. Two or more persons not being

copartners, owning personal property in common may each be assessed severally for his portion thereof. Undivided interests in lands owned by tenants in common, or joint tenants not being copartners, may be assessed to the owners thereof.

Partnership property.

Tenants in common, etc.

SEC. 25. The description of real property may be as follows, viz.:

Description of realty.

1. If the land to be assessed be an entire section, it may be described by the number of the section, township and range.

Sectional descriptions.

2. If the tract be the subdivision of a section authorized by the United States for the sale of public lands, it may be described by the designation of such subdivision, with the number of the section, township and range.

Subdivisions.

3. If the tract be less or other than such subdivision, it may be described as a distinct part of such subdivision, or by designation of the lot or other lands by which it is bounded, or in some way by which it may distinctly be known.

Irregular parcels.

4. In case of land platted or laid out as a town, city or village, or as an addition to a town, city or village, the same may be described by reference to such plat and by the number of the lots and blocks thereof, whether such plat be recorded or not.

Land platted.

5. When two or more parcels of land adjoin and are used and occupied together, they may be assessed by one valuation.

Adjoining lands.

6. Lands may be designated by any description by which they may be known.

Described as known.

7. It shall be sufficient to describe the real property assessed upon any roll and in all other proceedings under this act, in the manner heretofore in use by initials, letters, abbreviations and figures.

Abbreviations.

SEC. 26. The description of personal property on said roll may be made by using the word "personal," except in cases heretofore mentioned, or in the assessing of any dog tax authorized by law, in which case the kind of property assessed shall be properly designated upon the roll.

Personal property.

Dogs.

SEC. 27. The words "cash value," whenever used in this act, shall be held to mean the usual selling price at the place where the property to which the term is applied shall be at the time of assessment, being the price which could be obtained therefor at private sale, and not at forced or auction sale. In determining the value the assessor shall also consider the advantages and disadvantages of location, quality of soil, quantity and value of standing timber, water power and privileges, mines, minerals, quarries or other valuable deposits known to be available therein and their value.

"Cash value" defined.

Location and appurtenances.

OF THE BOARD OF REVIEW.

- Board of review.** SEC. 28. At the annual township meeting held on the first Monday of April in the year eighteen hundred and
- Election of.** ninety-four, there shall be elected by ballot, on the regular township ticket, two suitable electors of the township to serve as members of the board of review, one of whom shall be elected for one year, and one for two years, and annually thereafter one member shall be elected for two years, who shall take the constitutional oath of office as other
- Supervisor to be member.** township officers. The supervisor and the two electors so elected shall constitute a board of review for such township.
- Vacancies.** The township board may temporarily fill any vacancy which shall occur in the membership of said board of review, but no member of such township board shall be eligible to fill such vacancy. A majority of said board of review shall
- Quorum, etc.** constitute a quorum for the transaction of business, but a less number may adjourn from day to day, and a majority vote of those present shall decide all questions.
- Time of meeting.** SEC. 29. On the Tuesday next following the third
- Supervisor to submit roll.** Monday in May, the board of review of each township shall meet at the office of the supervisor; at which time the supervisor shall submit to said board the assessment roll for the current year, as prepared by him, and the said board shall proceed to examine and review the same, and during that day, and the day following if necessary, said board of its own motion, or on sufficient cause being
- Board to correct and perfect roll.** shown by any person, shall add to said roll the names of persons, the value of personal property, and the description and value of real property liable to assessment in said township, omitted from such assessment roll; they shall correct all errors in the names of persons, in the descriptions of property upon such roll, and in the assessment and valuation of property thereon, and they shall cause to be done whatever else may be necessary to make said roll comply with the provisions of this act. The board shall pass upon each valuation and each interest, and shall enter the valuation of each, as fixed by it, in
- Supervisor's roll to stand as approved.** a separate column. The roll as prepared by the supervisor shall stand as approved and adopted as the act of
- Exceptions.** the board of review, except as changed by a vote as herein provided. If for any cause a quorum does not assemble during the days above mentioned, the roll as prepared by the supervisor shall stand as if approved by the board of review.
- Second meeting.** SEC. 30. Said board of review shall also meet at the office of the supervisor on the fourth Monday in May at nine o'clock in the forenoon, and continue in session during the day and the day following. Such board shall continue its sessions at least six hours each day, and at the
- Corrections on request.** request of any person whose property is assessed thereon or of his agent, and on sufficient cause being shown, shall correct the assessment as to such property, in such

manner as in their judgment will make the valuation thereof relatively just and equal. To that end said board may examine on oath the person making such application, or any other person, touching the matter. Any member of said board may administer such oath. After said board shall complete the review of said roll, a majority of said board shall endorse thereon and sign a statement to the effect that the same is the assessment roll of said township for the year in which it has been prepared and approved by the board of review. Said statement may be in the following form, viz.:

Evidence under oath.

Endorsement of roll.

"Assessment roll of the township of....., for the year 18.., as approved by the board of review. Form.

"Dated.....

"Board of Review."

SEC. 31. Upon the completion of said roll and its indorsement in manner aforesaid, the same shall be conclusively presumed by all courts and tribunals to be valid, and shall not be set aside except for causes hereinafter mentioned. The omission of such indorsement shall not affect the validity of such roll.

Completed roll valid.

SEC. 32. If from any cause a quorum shall not be present at any meeting of the board of review, it shall be the duty of the supervisor, or, in his absence, any other member of the board present, to notify each absent member to attend at once, and it shall be the duty of the member so notified to attend without delay. If from any cause the second meeting of such board of review herein provided for is not held at the time fixed therefor, then and in that case it shall meet on the next Monday thereafter, and proceed in the same manner and with like powers as if such meeting had been held as hereinbefore provided.

Absent members.

SEC. 33. The supervisor or clerk of said board of review shall keep a record of the proceedings of the board and of all the changes made in such assessment roll, and shall file the same with the township or city clerk with the statements made by persons assessed.

Records of board.

EQUALIZATION BY COUNTIES.

SEC. 34. The board of supervisors in each county shall, at their session in October in each year, examine the assessment rolls of the several townships, wards, or cities, and ascertain whether the relative valuation of the real property in the respective townships, wards, or cities, has been equally and uniformly estimated. If, on such examination, they shall deem such valuation to be relatively unequal, they shall equalize the same by adding to or deducting from the valuation of the taxable property in any township, ward, or city, or townships, wards, or cities, such an amount as in their judgment will produce rela-

Equalization by supervisors.

tively an equal and uniform valuation of the real property in the county, and the amount added to or deducted from the valuation in any township, ward, or city, shall be entered upon the records. They shall also cause to be entered upon their records the aggregate valuation of the taxable real and personal property of each township, ward, or city in their county as determined by them. The board shall also make such alterations in the description of any lands upon such rolls as may be necessary to render such description conformable to the requirements of this act. After such rolls shall have been equalized, each shall be certified to by the chairman and clerk of the board and be delivered to the supervisor of the proper township, ward, or city, who shall file and keep the same in his office.

Correction of descriptions.

Certification.

To whom delivered.

OF TAXES, HOW AND BY WHOM CERTIFIED.

State taxes. SEC. 35. On or before the first day of September in each year the Auditor General shall make and record in his office a statement showing the taxes to be raised for State purposes that year, referring to the law on which each tax is based, and the total amount of such taxes.

Auditor General to apportion. The State tax he shall apportion among the several counties in proportion to the valuation of the taxable property therein as determined by the last preceding State board of equalization, and shall before the October session of the board of supervisors in each year make out and transmit to the clerk of each county a statement of the amount of such taxes so apportioned to such county. He shall also, in a separate item of said statement, set forth the amount of indebtedness of such county to the State as shown by the statement of the account between the county and the State made by the Auditor General on the first day of July next previous to such apportionment, which amount shall be apportioned by the board of supervisors of the proper county at the same time as State taxes contained in said apportionment of the Auditor General, and shall be levied in the same manner as and become a portion of the county taxes for the same year, unless the said indebtedness shall have been paid to the State before October first: *Provided*, That such portion thereof, if any, as should be assessed to a particular township, shall be apportioned to and assessed upon such township, ward or city.

Basis of apportionment.

County indebtedness to State.

To be portion of county tax.

Proviso.

Duties of township clerk.

SEC. 36. It shall be the duty of the township clerk of each township, on or before the first day of October of each year, to make and deliver to the supervisor of his township, a certified copy of all statements and certificates on file, and of all records of any vote or resolution in his office authorizing or directing moneys to be raised therein by taxation for township, school, highway, drain, and all other purposes, together with a statement of the aggregate amount

thereof, and such certified copies shall, by such supervisor, be delivered to the clerk of the county on or before the second Monday of said month, and the same shall by said clerk be laid before the board of supervisors at its annual meeting and filed in his office.

Duties of supervisor and county clerk.

SEC. 37. The board of supervisors, at their annual session in October in each year, shall ascertain and determine the amount of money to be raised for county purposes, and shall apportion such amount, and also the amount of the State tax and indebtedness of the county to the State among the several townships in the county in proportion to the valuation of the taxable property therein, real and personal, as determined by them for that year, which determination and apportionment shall be entered at large on their records. They shall also examine all certificates, statements, papers and records submitted to them, showing the moneys to be raised in the several townships for school, highway, drain, township and other purposes. They shall hear and duly consider all objections made to raising any such moneys by any taxpayer to be affected thereby. If it shall appear to the board that any certificate, statement, paper or record is not properly certified, or that the same is in anywise defective, or that any proceeding to authorize the raising of any such moneys has not been had, or is in anywise imperfect, and such certificate, statement, paper, record or proceeding can then be corrected, supplied or had, such board may authorize and require such defects or omissions or proceedings to be corrected, supplied or had. They may refer any or all such certificates, statements, papers, records and proceedings to the prosecuting attorney, whose duty it shall be to examine the same and, without delay, report in writing his opinion to the board. They shall direct that such of the several amounts of money proposed to be raised for township, school, highway, drain and all other purposes, as shall be authorized by law, be spread upon the assessment roll of the proper townships, wards and cities. Such action and direction shall be entered in full upon the records of the proceedings of the board, and shall be deemed final as to the levy and assessment of all such taxes.

Supervisors to apportion taxes among townships.

To examine requirements of townships.

To hear objections.

Correction of records, etc.

Duties of prosecuting attorney.

Township, etc., taxes.

Record of action.

SEC. 38. The clerk of the board of supervisors shall, immediately after the said apportionment, make out two certificates showing the amounts apportioned to each township for State, county and the various township purposes, each tax being kept distinct, one of which he shall deliver to the county treasurer, and the other to the supervisor of the proper township: *Provided*, That if said clerk fail to make such certificate, the supervisor shall take official notice of all certificates, statements, papers and records in the office of the township and county clerk relating to the levy of taxes in his township, and of the action of the board of supervisors thereon.

County clerk to make certificates of apportionment.

Provided.

TAXES—HOW TO BE ASSESSED.

Assessment, how made.

Proviso.

Several taxes entered separately.

Total to be extended.

Taxes and charges a lien on Dec. 1.

Precedence of tax lien.

Assessor to foot roll.

Duties of township clerk.

SEC. 39. The supervisor of each township or ward, and the assessing officer of each city or village, as provided by law, shall proceed to assess the taxes apportioned to his township, or assessment district, according and in proportion to the valuations entered by the board of review in the assessment roll of the township, ward, village or city of the year: *Provided*, That if the board of review make no such entry, then on the valuation therein as entered by the supervisor or assessor. For the purpose of avoiding fractions in computation, the assessor may add to the amount of the several taxes to be raised not more than one per cent.; said excess shall belong to the contingent fund of the township; such taxes shall be entered in separate columns, as follows: All school taxes and the one mill tax in one column, highway taxes in another, township taxes in another, county taxes in another, and the State taxes in another column; and if other taxes are at any time required to be raised, they shall be placed in separate columns. The total of all the taxes assessed against any one valuation or parcel of property shall be added and carried out in the last column upon the right hand side of such roll.

SEC. 40. The taxes thus assessed shall become at once a debt to the township, ward or city from the persons to whom they are assessed, and the amounts assessed on any interest in real property shall, on the first day in December, become a lien upon such real property, and the lien for such amounts, and for all interest and charges thereon, shall continue until payment thereof. And all personal taxes shall also be a lien on all personal property of such persons so assessed from and after the first day of December in each year, and shall take precedence of any sale, assignment or chattel mortgage, levy or other lien, on such personal property, executed or made after said first day of December, except where such property is actually sold in the regular course of trade.

SEC. 41. Before the supervisor or assessing officer shall deliver such roll to the township treasurer or city collector he shall carefully foot the several taxes thereon levied, and shall give to the township or city clerk of his township or city a statement thereof and of each tax, in writing, and such clerk shall immediately charge the amount of such taxes to the township treasurer or city collector.

THE TAX ROLL.

Supervisor to annex warrant to assessment roll.

SEC. 42. The supervisor shall thereupon prepare a copy of the said assessment roll, with the taxes assessed as hereinbefore provided, and annex thereto a warrant signed by him, commanding the township or city treasurer to collect the several sums mentioned in the last column of

such roll and to retain in his hands the amount receivable by law into the township treasury for the purposes therein specified, and to account for and pay over to the county treasurer the amounts therein specified for State and county purposes, on or before the first day of March next following; and the said warrant shall authorize and command the treasurer, in case any person named in the assessment roll shall neglect or refuse to pay his tax, to levy the same by distress and sale of the goods and chattels of such person. The supervisor may make a new roll and warrant in case of the loss of the one originally given the township treasurer. The copy of the roll with the warrant annexed, shall be known as "the tax roll."

Township treasurer to pay over State and county taxes.

Distress and sale.

Tax roll.

SEC. 43. The supervisor of each township on or before the fifteenth day of November in each year, shall notify the township treasurer of the amount of State and county taxes as apportioned to his township, and such treasurer, on or before the twenty-fifth day of November, shall give to the county treasurer a bond running to the county, in double the amount of State and county taxes, with sufficient sureties, to be approved by the supervisor of the township and the county treasurer, conditioned that he will pay over to the county treasurer as required by law, all State and county taxes which he shall collect during his term of office, and duly and faithfully perform all the other duties of his office. The county treasurer shall file and safely keep such bond in his office, and shall give to the township treasurer a receipt stating that he has received the bond required, which receipt the township treasurer shall deliver to the supervisor on or before the first day of December. The supervisor, after the delivery of such receipt, and on or before the first day of December, shall deliver to the township treasurer the tax roll of his township.

Township treasurer's bond.

Bond to be approved.

County treasurer to file bond.

Delivery of tax roll.

OF THE COLLECTING OF TAXES.

SEC. 44. On receiving such tax roll, the township treasurer or other collector shall proceed to collect such taxes. The township treasurer shall remain in his office at some convenient place in his township, village or city on every Friday in the month of December thereafter, from nine o'clock a. m. to five o'clock p. m., to receive taxes: *Provided, however,* That he shall receive taxes upon any week day when they may be offered, and on all sums voluntarily paid before the tenth day of January of the succeeding year, he shall add one per cent. for collection fees, and upon all taxes paid on or after said tenth day of January he shall add four per cent. In case he may be apprehensive of the loss of any personal tax assessed upon his roll, he may proceed to enforce its collection at any time, and if compelled to seize property or bring suit in December, may add four per cent. for collection fees, and when taxes are assessed on property occupied

Township treasurer to collect taxes.

Collection fees.

In case of apprehension of loss.

Liability of tenant.	by tenant or tenants paying rental therefor, and he is assessed as occupant of said premises, the said tenant or tenants shall be liable for the taxes assessed on said property after the time said tax roll is delivered to the township treasurer or other collecting officer for the year, but not for more of the same than the amount of the rental may be while said tax roll is in his hands and which becomes due to the owner during such period, and may be collected in the same manner as provided for collecting the same from persons owning and occupying their own property; and said collecting officer shall notify all such persons occupying rented property, or so far as he may know of the same, as soon as the tax roll is delivered to him, by written notice, and shall note said notice and the date thereof against the description of said property on the roll.
Collector to notify tenant.	SEC. 45. All taxes shall be collected by the several township and city treasurers or collectors, before the first day of March, in each year.
Collection to be before March 1.	SEC. 46. For the purpose of collecting the taxes remaining unpaid on the tenth day of January, the said treasurer shall, thereafter during that month, call personally upon each person liable to pay such taxes, if a resident of such township, or at his usual place of residence or business therein, and demand payment of the taxes charged against him. If such person is not a resident of the township, but resides within the county, or an adjoining county, and his residence is known to the treasurer, he shall make such demand either personally or by mail.
Personal demand.	In cases of companies or corporations demand may be made at the principal or other office of such company or corporation, or by mail directed to such corporation or company, or its principal officer at its usual place of business. In cities where some special provision is made for demand or collection of taxes, the collector or treasurer shall comply with such special provision, otherwise
Demand on companies.	be bound by the provisions of this act. If demand is sent by mail, the amount of the tax shall be stated and the place and time where and when it may be paid. He shall
Charter provisions.	give a receipt for every tax paid, and shall enter in ink the fact of payment, and the date thereof upon his tax roll.
Demand by mail.	In case of taxes assessed upon the shares of the capital stock of any bank he shall call upon the cashier of such bank and demand payment thereof, and thereupon it shall be the duty of such cashier to pay the same, and charge the amount so paid against the shares of stock so taxed.
Receipt.	SEC. 47.* If any person shall neglect or refuse to pay any tax assessed to him, the township or city treasurer, as the case may be, shall collect the same by seizing the personal property of such person to an amount sufficient to pay such tax, fees and charges for subsequent sale, wherever the same may be found in the county in
Tax on bank shares.	
Seizure of personal property for taxes.	

* As amended by Act 229, 1895.

which such treasurer resides or in an adjoining county thereto, and in case of assessments upon the personal property of corporations organized under the laws of this State for the purpose of engaging in maritime commerce, and navigation, wherever personal property of such corporation may be found within the State, and from which seizure no property shall be exempt. He may sell the property seized to an amount sufficient to pay the taxes and all charges, in the place where seized, or in the township or city of which he is treasurer, at public auction, on giving public notice of the same at least five days previous to the sale, by posting written or printed notices in three public places in the township, village or city where the sale is to be made, which sale may be adjourned from time to time if he shall deem the same necessary; and in case property shall be seized and advertised as herein directed, during the life of the warrant, the same may take place at any time within six days after the expiration thereof. If it becomes necessary to sell personal property which brings more than the amount of taxes and charges, the balance shall be returned to the person from whose possession the property was taken, except as hereinafter provided. If the property so distrained cannot be sold for want of bidders, and in such cases only, the treasurer shall return a statement of the fact, and such tax shall be returned as unpaid. The township treasurer, if otherwise unable to collect a tax on personal property, may sue the person to whom it is assessed, in the name of the township, village or city, and garnishee any debtor or debtors of such person. The tax roll shall be *prima facie* evidence of the debt sought to be recovered: *Provided*, That when any person having possession of the personal property of any other person or corporation shall be assessed for such property, and shall be obliged to pay the taxes thereon, such person, so paying the taxes, may recover of the person for whose benefit the taxes were paid, the money so paid, with the interest thereon, in an action of assumpsit.

SEC. 48. In case of a distress and sale of goods and chattels, for the payment of any tax, the treasurer or other collecting officer may also collect on such sale one dollar and fifty cents over and above the tax, as his fees for making such sale, which fees and percentage hereinbefore provided shall be in full for his services in collecting such taxes; and in case payment of such tax shall be made after the distress and before the sale, it shall be lawful for such treasurer or collecting officer to require the payment of one dollar and fifty cents as his fee for making such distress, and to enforce payment of the same, if need be, by making sale notwithstanding the tax shall have been paid. And whenever any personal property having been assessed to any person in any township or ward

Vessel property.

Sale of property seized.

Notice of sale.

Surplus proceeds.

Return of unpaid taxes.

Collection by suit.

Tax roll evidence of debt.

Proviso.

Collector's fee for sale.

Sale for fee.

Collection of
taxes on person-
al property
removed.

Valid statement
of taxes on per-
sonal property
removed.

Collection where
found.

Levy of execu-
tion.

Claim for sur-
plus of sale.

in this State shall be removed therefrom before the taxes assessed thereon shall be collected, and there being no other personal property sufficient in said township or ward whereon the treasurer or other collecting officer can levy and collect said taxes, or any of them, he shall have full power, and it shall be his duty to make a statement, duly certified by him to be correct and true, showing that personal property has been assessed to such person, naming him, the valuation thereof, the various taxes thereon, and the total thereof, as appears from the roll in the hands of such treasurer, and that such property has been removed from such township, ward or city since the assessment thereof, and that the taxes or some portion of them has not been paid; which statement shall be witnessed and acknowledged in the same manner as deeds of real estate are acknowledged, and shall be received in all courts and other places as evidence of the facts therein contained, without proof of its execution, and shall be *prima facie* evidence of the validity of the tax therein named against the person therein named, and shall be full and ample authority to the treasurer or other tax collector to whom it shall be sent to levy and collect the same in the same manner as other personal taxes are collected by him when spread upon his own roll. Such statement may be sent to the township or city treasurer, or other collecting officer of any township or city in this State, where the person against whom such assessment was made may have property, and the treasurer, or other collecting officer to whom such statement shall have been transmitted, shall, upon the receipt of the same, proceed to collect said taxes out of any property belonging to the owner of such property so taxed as aforesaid, within his jurisdiction, liable to be seized for taxes, together with double collection fees therefor, and the further sum of twenty-five cents to defray the expense of transmitting the taxes so collected as hereinafter provided, and shall give his receipt therefor. The said treasurer, or other collecting officer, shall thereupon transmit the taxes, and one-half of the collection fees as aforesaid collected, to the township treasurer, or other collecting officer, from whom he received such statement, and the latter shall, upon the receipt of said taxes and collection fees, mark the said taxes in ink as paid upon his tax roll, and the date of the receipt of the same, retaining the collection fees so received as aforesaid, as his fees in the matter of the collection of said taxes. Executions issued upon judgments rendered for any tax, may be levied upon any property, without exemption, the same as though seized for sale under warrants issued for the collection of taxes by township supervisors, and collected in the same manner, in all other respects, as provided by law for the collection of judgments.

SEC. 49. Whenever a surplus arising from the sale of any property distrained for taxes, shall be claimed by any

other than the person for whose tax such property was sold, and such claim shall be contested, either of the contestants may prosecute an action against the other, as for money had and received, and in such action the rights of the parties to such surplus shall be determined. For the purpose of such action the defendant shall be deemed to be in possession of the surplus in the hands of the treasurer, and upon the presentation to said treasurer of a certified copy of the final judgment rendered in such action he shall pay over the same to the party recovering such judgment, and no such treasurer shall be liable to any claimant of such surplus, the right to which is contested as provided in this act, until he shall have refused to pay over such surplus upon the production of a certified copy of the judgment as aforesaid. In any action brought pursuant to this section no other case shall be joined, nor shall any set off be allowed, and if an execution issue on a judgment so rendered, it shall direct the costs only of such action to be levied by virtue thereof.

Defendant deemed in possession.

Treasurer not liable.

Rule in action.

SEC. 50. In case any township treasurer shall neglect to give either of the bonds required, or shall die, resign or remove out of the township or become unable to discharge the duties of his office, the township board shall forthwith appoint a new treasurer, who, on giving the required bonds, shall execute the duties of the office for the remainder of the year and until his successor is elected and qualified. The township clerk shall immediately notify the county treasurer of such appointment.

Disability of township treasurer.

Township board to appoint.

SEC. 51. In case the township treasurer shall neglect or refuse to file his bond with the county treasurer, in the manner and within the time prescribed by law, and the township board shall fail to appoint a treasurer who shall give such bond, and deliver a receipt for the same to the supervisor by the tenth day of December, the supervisor shall deliver the tax roll with the necessary warrant directed to the sheriff of the county, who shall, before he receives said tax roll, execute and deliver like bonds required of the township treasurer, and make like collections and returns, and shall be entitled to the same compensation on all taxes collected by him by virtue of such warrant as is allowed to the township treasurer, and for the purpose of collecting the same, shall be vested with all the powers conferred upon the township treasurer, and suit may be brought on such sheriff's bond under the same circumstances as on those of a township treasurer.

Sheriff to collect in certain cases.

Bonds.

Compensation.

Powers.

SEC. 52. In case the township treasurer shall not collect the full amount of taxes required by his warrant to be paid into the township treasury, such portion thereof as he shall collect shall be retained by him to be paid out for the following purposes: The amount of school taxes collected to be paid on the order of the school district officers, the amount collected for general township purposes to be

When collection incomplete.

Amount collected, how disbursed.

paid on the order of the township board, the amount collected for highway purposes to be paid on the order of the commissioner of highways countersigned by the township clerk or supervisor, and the amount collected for any special fund to be paid on the order of the proper officer, but in no case shall the amounts collected for any one fund be paid on the orders drawn on any other fund.

Partial payment. SEC. 53. Any one may pay the taxes or any one of the several taxes or any part thereof on any parcel of land and the treasurer shall note across the face of the receipt in ink, any portion of the taxes remaining unpaid. He may pay any tax, whether levied on personal or real property, under protest to the treasurer, specifying at the time in writing, signed by him, the grounds of such protest, and such treasurer shall

Payment under protest. minute the fact of such protest on the tax roll and in the receipt given. The person paying under such protest may, within thirty days, and not afterwards, sue the township for the amount paid, and recover, if the tax is shown to be illegal for the reason specified in such protest. Any person owning an undivided share, or other part or parcel of real property assessed in one description, may pay on the part thus owned by paying an amount having the same relation to the whole tax as the part on which payment is made has to the whole parcel. The person making such payment shall accurately describe the part or share on which he makes payment, and the receipt given and the record of the receiving officer shall show such description, and by whom paid; and in case of the sale of the remaining part or share for non-payment of taxes, he may purchase the same in like manner as any disinterested person could. Any person having a lien on property may, after thirty days from the time the tax is payable, pay the taxes thereon, and the same may be added to his lien and recovered with the rate of interest borne by the lien. A tenant of real estate may pay the taxes thereon and deduct the same from his rent, unless there be an agreement to the contrary. Such payment may be made to the township treasurer while the tax roll is in his hands, or afterwards to the county treasurer. The receipt given shall be evidence of such payment.

Payment of tax on undivided share. **Rights of holder of lien.** **Rights of tenant.** **Evidence of payment.**

Settlement by township treasurer. SEC. 54. Within one week after the time specified in his warrant, the township treasurer shall pay to the county treasurer, all State and county taxes collected: *Provided*. That the township treasurer of the township of South Manitou,* in the county of Manitou, shall pay to the county treasurer such State and county taxes at any time, on or before the first day of June next after the time specified in his warrant.

* Territory in county of Leelanau since April 4, 1895.

ON THE RETURN OF DELINQUENT TAXES.

SEC. 55. If the township treasurer or other collecting officer shall be unable to collect any of the taxes on his roll, assessed on real property, he shall make a statement of the same with a full and perfect description of such property, as assessed upon said roll, with the several taxes assessed upon each parcel thereof, which statement shall be verified by the affidavit of such treasurer or collector that such taxes remain unpaid, and that he has not, upon diligent inquiry, been able to discover any goods or chattels liable to pay such sums whereupon he could levy the same. The said treasurer or collector shall also make a statement showing the taxes upon personal property remaining unpaid, and the names of the persons against whom assessed, and the amount against each; and in such statement shall set forth the amount of all moneys collected by him on account of taxes, which statement shall be verified by the affidavit of such treasurer, in which he shall state in substance that the sums mentioned in such statement as uncollected remain unpaid; that he has not, upon diligent inquiry, been able to discover any goods or chattels belonging to the person liable to pay such sums whereupon he could levy the same, and that the amount of moneys collected by him upon such tax roll is truly stated therein. The county treasurer shall immediately compare such statements with the said tax roll, and if he finds the same to be correct, he shall add to each of them a certificate showing that he has examined and compared such statements with the said tax roll and found them correct, and shall file such statements in his office: *Provided*, That the county treasurer shall, at the time of making such comparison, and at no other time, reject any tax upon any land which shall have been twice assessed, or upon any parcel which shall be so erroneously or defectively described upon the tax roll that it cannot be correctly and easily ascertained. The county treasurer shall give to the township treasurer a receipt, stating the amount of moneys paid to him by such treasurer, for which the township shall receive a credit on the books of the county treasurer, and he shall also give the township treasurer a statement of all taxes rejected by him, the amount of delinquent taxes returned, and the amount of any unpaid taxes on personal property, which receipt and statements shall be the vouchers of such treasurer of the amounts specified therein.

SEC. 56. The county treasurer shall thereupon indorse the fact of such settlement on the bond of the township or city treasurer, which indorsement shall operate as a discharge of the treasurer and his sureties from the obligation thereof, unless the return of such treasurer is incorrect, in which case such bond shall continue in force, and such treasurer and his sureties shall be liable thereon for all damages occasioned by such incorrect returns; and

Delinquent taxes.

Return of, by collector.

County treasurer shall compare.

Certificate.

When county treasurer may reject tax.

Receipt to collector.

Collector's voucher.

Discharge of township treasurer's bond.

Tax roll and copy to be filed with county treasurer.

Uncollected personal taxes.

Record and transcript of delinquent taxes.

Certificate of county clerk upon transcript.

Return to Auditor General.

County treasurer may receive taxes returned.

Duplicate receipts.

Duties of county clerk.

the township treasurer shall immediately deposit his tax roll with the county treasurer, who shall file and preserve the same in his office, and which said roll or a duly certified copy thereof shall, for all purposes, in all courts, suits and proceedings, be taken, held and used as evidence, in the same manner and with like effect as the original roll. The county treasurer shall give the township or city treasurer a statement of all the personal taxes which remain uncollected, taken from the return of the latter, with a warrant authorizing him or his successor to collect them according to law, and thereafter such treasurer or his successor shall have the same power to collect such taxes as under the original warrant.

SEC. 57. When any county treasurer shall receive from a township treasurer a statement of unpaid taxes, together with a list of the lands on which the same are delinquent, verified according to law, such county treasurer shall enter the same at length on the books in his office, provided for that purpose, and he shall make a transcript of all the descriptions of land returned as delinquent for unpaid taxes, except such as may have been rejected by him, with the several taxes assessed upon such descriptions respectively, which transcript shall be compared by the county clerk with the statement of the county treasurer, and if the county clerk finds it to be a true transcript thereof, he shall add to it a certificate that he has, upon careful examination, found it correct. Such transcript, so made, compared and certified, shall be forwarded by the county treasurer to the Auditor General, by the first day of May next after the return of such statement; but such transcript shall be receivable at any time during said month of May, and the Auditor General is hereby authorized, when in his judgment it may be deemed expedient, to extend the time in which said transcript shall be returned to him: *Provided*, That such transcript of statement from the township of South Manitou,* in the county of Manitou, shall be receivable at any time before the tenth day of June next following said month of May.

SEC. 58. After the return of lands for unpaid taxes the county treasurer is authorized to receive, under like provisions as in section fifty-three of this act, the amounts of the several taxes or any of them due, and the board of supervisors in each county may authorize notice to be given to all delinquent taxpayers so far as known. The county treasurer shall issue duplicate receipts for all such taxes received by him, which shall be countersigned by the county clerk, and one of such duplicates shall be left with said clerk, who shall make an entry of the amount for which every such receipt was given, with the name and postoffice address of the person paying such tax, in a book provided for that purpose, and shall on the first

* Territory in county of Leelanau since April 4, 1895.

Monday of each month, forward all such receipts to the Auditor General, in such manner as he may direct.

SEC. 59. Any person may pay the taxes or any one of the several taxes, on any parcel or description of land returned as aforesaid, or any undivided share thereof, with interest computed thereon from the first day of March next after the same were assessed, at the rate of eight per cent. per annum, and office charges,* with four per cent. as a collection fee, to the county treasurer of the county in which the lands are situated, at any time before they are sold: *Provided*, That on all descriptions of land on which any of the several taxes remain unpaid at the time prescribed for the sale of such delinquent tax lands there shall be charged an additional seventy cents to cover the cost of advertising and selling the same.

Partial payment.

Interest and collection fee.

Charges for advertising and sale.

OF THE SALE, REDEMPTION AND CONVEYANCE OF DELINQUENT TAX LANDS.

SEC. 60. All lands which have been or may hereafter be returned to the Auditor General as delinquent for taxes, and upon which any taxes are now or shall hereafter remain unpaid, after their return to the Auditor General under the provisions of this act, or to the several county treasurers of the State under the provisions of act number two hundred of the public acts of eighteen hundred and ninety-one, for the period of one year or more, shall be subject to disposition, sale and redemption for the enforcement and collection of such tax liens, in the method and manner as hereinafter provided. In the disposition and sale of such delinquent tax lands the people of the State of Michigan shall be deemed to have a valid lien upon such lands, with all the rights to enforce the same as a preferred or first claim upon such lands, and the rights and choses to enforce such lien shall be held and construed by all the courts of this State as the *prima facie* rights of the State, and shall not be set aside or annulled except in the manner and for the causes herein specified.

Delinquent taxes subject to sale.

Right to enforce lien.

OF THE NOTICE AND LISTS OF LAND TO BE SOLD.

SEC. 61. As soon as practicable after the twelfth day of June, 1893, and as soon as practicable after the first day of June in each year thereafter, the Auditor General shall prepare and file in the office of the county clerk in each county in which lands are to be sold under the provisions of this act, a petition addressed to the circuit court for said county in chancery, stating therein by apt reference to lists or schedules annexed thereto a description of all lands in such county upon which taxes have remained unpaid for more than one year prior to the first

Petition for decree of sale.

Showing required.

* No office charges on payment of taxes being provided for by law, none are chargeable.

day of May, 1893, or the first day of May of the year in which the petition is filed, and the total amount of such taxes, with interest computed thereon to the time fixed for the sale thereof, and a collection fee of four per cent. extended separately against each parcel of land, and he shall include with and add to such total amount against each parcel seventy cents for the cost of advertising and other expenses of sale. Such petition shall pray a decree in favor of the State of Michigan against said land for the payment of the several amounts so specified therein, and in default thereof that such lands be sold.

Verification. It shall be signed by the Auditor General and need not be otherwise verified, and shall be deemed equivalent to a bill in chancery to enforce the lien for such taxes, interest and charges, averring their validity, that they have not been paid, and praying for a sale to pay such lien.

State tax lands not included. Lands hereafter bid off in the name of the State and thus held shall not be included in such petition. The petition shall be in a substantial record book, with the lists of lands and taxes annexed following the same therein. Such record shall be ruled with appropriate columns, one containing a description of the lands, with columns for the total amount of taxes, interest and charges claimed due on each parcel of land opposite thereto; also with blank columns, one with heading, "Parts of descriptions paid before sale or withheld;" another, "By whom paid;" another, "Amount paid before sale;" another, "Amount decreed against lands;" another, "Special orders;" another, "Interest in each parcel sold;" another, "Name of purchaser;" another, "Address of purchaser;" another, "Number of certificate;" another, "Remarks." The Auditor General may add such other columns as he may find necessary. The word petition shall be construed to include the lists annexed thereto.

Form of petition. Said record shall be called "tax record." Parts of descriptions of lands upon which taxes are paid before sale, or which are withheld from sale, the amount paid on taxes before sale, the amount of taxes, interest and charges decreed against lands, special orders made by court relating to any parcel of land or any tax, the interest in each parcel of land sold, the name of each purchaser and his address, and the number of certificate of sale shall be entered in said record under their appropriate headings, opposite to the description of lands affected thereby.

Tax record. SEC. 62.* It shall be the duty of the county clerk, on the filing of the said petition, to at once present the same to the circuit judge of the county in which said delinquent tax lands are situate, and it shall be the duty of said circuit judge to make an order in the form herein prescribed, which order, when so made and signed by the circuit judge, shall be countersigned by the county clerk as register in chancery, and recorded by him in the proper

Duties of circuit judge and county clerk.

* As amended by Act 154, 1895.

books of his office, and thereupon it shall be the duty of said county clerk to immediately make a true copy of said order, and transmit the same to the Auditor General. Said order shall be substantially in the following form:

STATE OF MICHIGAN, }
COUNTY OF -----, } ss.

The circuit court of the county of..... in Form of decree,
chancery.

In the matter of the petition of the State of Michigan, for the sale of certain lands for taxes assessed thereon:

On reading and filing the petition of the Auditor General of the State of Michigan, praying for a decree in favor of the State of Michigan, against each parcel of land therein described, for the amounts therein specified, claimed to be due for taxes, interest and charges on each such parcel of land, and that such lands be sold for the amounts so claimed by the State of Michigan.

It is ordered that said petition will be brought on for hearing and decree at the term of this court, to be held at in the county of State of Michigan, on the day of A. D. 18...., at the opening of the court on that day, and that all persons interested in such lands or any part thereof, desiring to contest the lien claimed thereon by the State of Michigan, for such taxes, interest and charges, or any part thereof, shall appear in said court, and file with the clerk thereof, acting as register in chancery, their objections thereto, on or before the first day of the term of this court above mentioned, and that in default thereof the same will be taken as confessed and a decree will be taken and entered as prayed for in said petition. And it is further ordered that in pursuance of said decree the lands described in said petition for which a decree of sale shall be made, will be sold for the several taxes, interest and charges thereon as determined by such decree, on the first Monday in December thereafter, or on the day or days subsequent thereto, as may be necessary to complete the sale of said lands and of each and every parcel thereof, at the office of the county treasurer, or at such convenient place as shall be selected by him at the county seat of the county of, State of Michigan; and that the sale then and there made will be a public sale and each parcel described in the decree shall be separately exposed for sale for the total taxes, interest and charges, and the sale shall be made to the person offering to buy for any given tax, and paying the full amount charged against said parcel, and accepting a conveyance of the smallest undivided fee simple interest therein; or, if no person will buy for any of said several taxes and pay the balance thereof, and take a conveyance of less than the entire thereof, then the whole parcel shall be offered and sold. If any parcel of land cannot be sold for taxes, interest

and charges, such parcel shall be passed over for the time being, and shall, on the succeeding day, or before the close of the sale, be reoffered, and if, on such second offer, or during such sale, the same cannot be sold for the amount aforesaid, the county treasurer shall bid off the same in the name of the State.

Witness the Hon., circuit judge,
and the seal of said circuit court of county,
this day of, A. D. 18..,

Countersigned,

Circuit Judge.

..... *Register.*

**Auditor General
to designate
newspapers.**

SEC. 63. The newspapers in which such order and petition are to be published shall be designated by the Auditor General on or before the first day of July in each and every year, and not afterwards, unless the publisher of the paper so designated shall fail to accept such designation within fifteen days after the same is made, or shall refuse or neglect to publish and print such order and petition, or unless from any other cause, such publication shall become impracticable; in which case the Auditor General shall designate some other paper for that purpose before the time limited for commencing such publication.

**Publication in
certain events.**

SEC. 64. In case there is no paper published in such county, or if from any cause no paper can be secured in any county to publish such order and petition, the Auditor General shall cause such order and petition containing the list of lands delinquent for taxes to be printed in proper form for general distribution, and shall furnish the county treasurer with such number of the same as may be necessary to furnish each voter at the last general election in said county with one copy, and such county treasurer shall distribute the order and petition in such manner that copies thereof may become public in every township in said county, and shall post or cause to be posted three copies in three public places in each township, and shall file affidavit of the posting and distribution of the same in the usual form in the office of said county treasurer and of the Auditor General.

**County treasurer
to distribute.**

**Proof of distri-
bution.**

**Cost of adver-
tising.**

SEC. 65. The cost of such advertising shall in no case exceed the sum of forty cents for each description of land so advertised and sold, and shall be paid by the State Treasurer, upon the warrant of the Auditor General, out of the general fund of the State.

**Publication of
order and peti-
tion.**

SEC. 66.* The Auditor General shall cause a copy of said order and a copy of said petition to be published, at least once in each week for four successive weeks next prior to the time fixed for the hearing thereof, in some newspaper published and circulating in the county where such petition is filed, to be selected by the Auditor Gen-

* As amended by Act 162, 1895.

eral. Said order and petition shall both be published in the same newspaper, the order immediately preceding the petition: *Provided*, In such petition it shall be sufficient to print against each parcel the "amount of taxes," "interest," "charges," "total" due on each. The cost of such publication shall be paid by the State on the warrant of the Auditor General, not exceeding forty cents for each parcel of land advertised. The proprietor of such paper shall furnish the proper county treasurer and Auditor General each with two copies of each issue containing such publication, and it shall be the duty of such Auditor General and treasurer to carefully examine the notices published and see that they are correct. Any person familiar with the facts may make an affidavit as to the publication required. The Auditor General shall not pay for any such publication until satisfied that it has been made according to law. The publication of the order and petition aforesaid shall be equivalent to a personal service of notice on all persons who are interested in the lands specified in such petition, of the filing thereof, of all proceedings thereon and of the sale of the lands under the decree, and shall give the court jurisdiction to hear such petition, determine all questions arising thereon, and to decree a sale of such lands for the payment of all taxes, interest and charges thereon. The circuit court in chancery shall have jurisdiction to hear, try and determine the matters alleged in such petition, even though the amount involved therein be less than one hundred dollars.

Copies of publication.

Publication equivalent to personal notice.

Jurisdiction of circuit court.

It shall be the duty of the prosecuting attorney to prosecute all such proceedings on the part of the State. If he shall refuse, neglect or be unable to do so, the court shall appoint some competent person to take charge of and prosecute the same, who shall be paid by the county. The board of supervisors may employ some competent person to prosecute such proceedings or assist therein. Proof of the publication of the order and petition herein required shall be filed in the office of the county clerk before any final order is made. Any person against whom a decree has not been taken desiring to contest the validity of any tax shall file in writing his objections thereto with the clerk of the county on or before the day fixed in said notice for the hearing of such petition, and serve a copy thereof on the prosecuting attorney of the county in which said lands are advertised for sale, at least ten days prior to the day fixed in said notice for the hearing thereof, and shall not be allowed to make any objection not therein specified. If within the first five days after the day fixed in such notice for the hearing of such petition it shall be made to appear to the court that any person has been prevented from filing his objections to any tax, without any fault on his part, such further time may be granted for that purpose as may seem proper, not exceeding five days. The court shall give precedence to the hearing of

Prosecuting attorney to prosecute.

Filing of proof of publication.

Contested taxes.

Notice of contest to be served on prosecuting attorney.

Petition to have precedence.	such petition over all other business, shall examine, consider and determine the matters therein stated and objections made in a summary manner without other pleadings, and make final decree thereon as the right of the case may be. The taxes specified in the petition shall be presumed to be legal and a decree be made therefor unless the contrary is proved.
Evidence.	Evidence shall be taken in open court. All oral testimony shall, at the request of any person interested, be written down and filed. The court may make
Court orders and decisions.	such orders from time to time as may be necessary to facilitate the proceedings, and shall decide all questions as to the admissibility of evidence and the decision so made shall be final, and not subject to review or appeal. If the
Separation and rejection of taxes.	lands of two or more persons have been assessed together, the court may, if practicable, separate the same and apportion to each parcel its just proportion of the taxes, interest and charges. If any tax shall be found illegal, such part shall be set aside, and the remaining tax shall be decreed valid. The total amount of taxes, interest and charges, as fixed by the court, shall be entered by the
Entry of decree.	register of the court opposite each parcel of land in the column of said record under the heading, "Amount decreed against lands." If the court shall make any order setting aside the taxes on any parcel of land, or any part thereof, or any special order relating to any particular parcel of land, or taxes thereon, a brief entry of such order shall be made upon said record opposite such land or tax,
Judge shall sign orders.	which shall be signed by the judge of the court, either by his full name or initials, and such entry shall have the same effect as if made and entered as a part of the
Final decree.	final decree. At least ten days prior to the time fixed for the sale of such lands, the court shall make a final decree in favor of the State of Michigan for such taxes, interest and charges as shall be valid, and determine the total amount thereof chargeable against each parcel of land, and shall order and decree that such several parcels of land or so much of each as may be necessary to satisfy the amount fixed by such decree, shall severally be sold as the law directs. Such decree shall be considered as a several decree in favor of the State of Michigan against each parcel of land for each tax included therein. The court may decree such costs against a person contesting any tax as may be equitable, if the tax, or any part thereof, which remains unpaid, be adjudged valid.
Costs may be decreed.	
Record of decree.	SEC. 67. Such final decree shall be entered in the chancery record for recording decrees of such court, have the usual caption for decrees, and shall be substantially in the following form: "In the matter of the petition of the State of Michigan for the sale of certain lands for taxes assessed thereon. The said petition and the matters therein stated, and the objections filed to certain taxes therein claimed [if any such objections are filed]
Form.	

came on to be heard, and proof of the due publication of notice of hearing of such petition having been made and filed, and after hearing all parties interested therein: It is ordered, adjudged and decreed that the amount of taxes, interest, collection fee, and charges set down in the column headed 'Amount decreed against lands,' in the tax record of which such petition forms a part, are valid, and decree is made in favor of the State of Michigan therefor against each parcel of said land for the amount set down in said column opposite to such parcel. It is further ordered, adjudged, and decreed that said several parcels of land, or such interest therein as may be necessary to satisfy the amount herein decreed against the same, shall be severally sold as the law directs. It is further adjudged and decreed that the several special orders made by this court, and entered on such tax record, are made a part hereof, with the same effect as if entered herein." If costs are adjudged against any person contesting a tax, the decree therefor shall be in proper form and execution awarded. The decree shall be signed by the judge and countersigned by the clerk. Immediately after the entry of such decree, the county clerk shall make a certified copy thereof, and annex the same to the tax record. He shall thereupon deliver such tax record to the county treasurer, in whose office the same shall remain except as needed in the office of the county clerk. If from any cause the hearing on said petition is not had on the day fixed in the notice therefor, the same shall stand continued from day to day during the term without the entry of any order of continuance, until disposed of, and if it shall for any reason be found impracticable to hear and determine the objections to all of the taxes specified in such petition within the time herein fixed for that purpose, then and in that case the court shall, within the time herein named, make a final decree as to all taxes to which no objections have been filed, and also those to which objections have been filed, which the court has then heard and passed upon. Such decrees shall be signed and recorded as hereinbefore provided. The court shall proceed with the consideration of the remaining taxes embraced in such petition, and objections thereto, and as soon as practicable dispose of the same by one or more decrees and in such form as the court may determine, which shall be entered in the chancery record of decrees of such court, and the same shall describe the lands and specify the total amount of taxes, interest, and charges on each parcel thereof. The county clerk shall immediately thereafter deliver to the county treasurer a certified copy of such decree, to be kept and used as hereinbefore provided. Such copy of decree shall be annexed to the tax record and shall thereby become a part thereof. If from any cause no decree shall be made on such petition as to the taxes therein named, or any part thereof, the Auditor General shall, as soon

Execution for costs.

Judge and clerk to sign decree.

Copy of decree annexed to record.

Tax record, where kept.

Continuance of hearing.

Supplementary decree.

New petition in certain cases.

as practicable, file a new petition for decree and sale, and proceedings thereon shall be the same and a decree and sale made as herein provided.

Appeal of contestant.

In case a decree is given in favor of the validity of any disputed tax, and the person contesting its validity desires to appeal to the supreme court, he shall be allowed to do so on paying the amount of the decree to the county treasurer, within ten days after the date of such decree, who shall retain the same until the decision of the supreme court, and pay the same to the party interested if such tax is held invalid; if held valid, then such money shall be credited to the proper fund. By such payment the land in question shall be discharged from the lien of the tax. In case the decision is against the validity of any tax, either the county treasurer or the Auditor General shall have a right to direct an appeal therefrom to the supreme court on behalf of the State, but there shall be no sale for the tax held invalid, until such decision has been reversed or modified by the supreme court.

Appeal of Auditor General or county treasurer.

Chancery practice.

The proceedings where the validity of any tax is in dispute shall, where no other provision is made herein, follow the ordinary chancery practice, and the court may allow amendments as in ordinary cases. Notice shall be given of all appeals to the supreme court and such appeal shall be claimed, entered and bond for costs given, within twenty days after the making and entering of the decree. When the appeal is taken in behalf of the State, no bond shall be required. The judge shall, at the request of either party and on due notice, settle in proper form a case containing so much of the record and proceedings as may be necessary to the due understanding thereof by the supreme court, and if appeal shall be taken such case shall be transmitted to such court. An appeal as to the tax on any parcel shall not delay or affect the proceedings for the sale of any land on which there has been no appeal.

Bond on appeal.

Record of proceedings.

State bids.

SEC. 68. If for any reason the treasurer of any county shall fail to offer the lands lying therein and included in the decree for sale for delinquent taxes thereon, then so many of such lands so included in such decree as shall not be so offered for sale, shall be considered and treated as if bid off to the State by the county treasurer, and shall be subject to redemption and sale in the same manner and within the same time as may be provided by law in the case of lands actually bid off for the State as provided in this act. All lands bid off for the State as provided in this section shall continue liable to be taxed in the same manner as if not held as belonging to the State, and all such taxes shall be a charge and lien upon such lands as in case of other tax lands, except as hereinafter provided.

State tax lands taxable.

Lands of incompetent persons.

SEC. 69. Whenever it shall be satisfactorily shown to the court that any lands included in such petition as

delinquent for taxes shall belong to infants, minor heirs, idiots or insane persons, without guardians or without any other means of support, the court is, in his discretion, authorized to withhold such lands from sale, until a settlement of such person can be made, and a guardian chosen or appointed to protect the rights and interests of such person: *Provided*, Such withholding shall not act to prejudice the lien of the State, county or township for such taxes, or the right to include the same in any subsequent petitions for sale as in this act provided. In case of the sale of lands belonging to any infant, idiots, minor heirs, insane or incompetent persons, if it shall appear to any court that it is necessary to protect the rights of such incompetent person, to order any sale canceled, or deferred, it may so order, and in such case all proceedings may be stopped, sale canceled or action stayed until the proper proceedings can be had to protect the rights and property of such incompetent person or persons.

Provide,

Cancellation, etc., of sale.

OF SALE BY COUNTY TREASURER.

SEC. 70. On the first Monday of December the county treasurer shall commence the sale of the lands mentioned in the decree upon which the amounts charged shall not have been paid, and shall continue the same from day to day, Sundays and other legal holidays excepted, until so much of each parcel shall be sold as shall be sufficient to pay such amounts. Each parcel described in the decree shall be separately exposed to sale for the total taxes, interest and charges, and the sale shall be made to the person offering to buy for any given tax and paying the full amount charged against such parcel, and accepting a conveyance of the smallest undivided fee simple interest therein. No greater interest in any parcel shall be sold than is sufficient to pay the amount of the tax on which the same is sold. If no person will buy for any of said several taxes and pay the balance thereof and take a conveyance of less than the entire thereof, then the whole parcel shall be offered and sold. The sale shall be at the county seat, at the office of or at such convenient place as shall be selected by the county treasurer, and shall be subject to the taxes assessed subsequent to taxes included in the decree and for the year for which the sale is made. The county treasurer may, in his discretion, require immediate payment of any person to whom any parcel of such land may be struck off, and in all cases where payment is not made in twenty-four hours after sale he shall declare the bid canceled and sell the land again; and any person to whom any parcel of land shall be so struck off, neglecting for twenty-four hours after the close of such sale to pay to the county treasurer the amount of such bid, shall forfeit to the State five times the amount of such bid and costs of suit therefor, which amount may be

Sale of delinquent lands.

Each parcel to be separately offered.

Sale for any given tax.

Conditions.

Sale at county seat.

Immediate payment required.

Penalty for non-payment.

	recovered in the name of the people of the State of Michigan in an action of debt, in any court of competent jurisdiction, and it shall be the duty of the county treasurer and prosecuting attorney of the county to prosecute for all such delinquencies and penalties without unnecessary delay. Any subsequent bid of such person made at the sale may be disregarded by the treasurer.
Re-offer of unsold parcels.	If any parcel of land cannot be sold for taxes, interest and charges, such parcel shall be passed over for the time being, and shall, on the succeeding day, or before the close of the sale, be re-offered; and if, on such second offer, or during such sale, the same cannot be sold for the amount aforesaid, the county treasurer shall bid off the same
State bids for several interests.	in the name of the State, for the State, county and township in proportion to the taxes, interest and charges due each. And in such case the county, township, school and other taxes assessed on the lands so bid off to the State, and the interest and charges thereon, shall remain a lien upon said
Taxes and charges continue a lien.	lands, and any person or persons who shall afterwards purchase such lands of the State, as State tax lands, or otherwise, shall be liable for and shall pay all taxes then remaining unpaid and assessed against such lands, together with the interest thereon at the rate of eight per cent. per annum, and the charges, collection fee and cost of advertising provided in section fifty-nine of this act, from the time said lands were returned delinquent for taxes until
Entry of sale, etc., in tax record.	the time of such sale. The county treasurer shall enter in the proper columns of the tax record the interest in lands sold, the name and postoffice address of each purchaser opposite each parcel of land sold, and the word "State" opposite each parcel bid off in the name of the State.
Certificates of sale.	Certificates shall be given to each purchaser of the lands and interests bid off by him, showing the year and the tax for which he has purchased, and also the amount thereof, and of all other taxes paid by him at the time of such purchase, stating that he will be entitled to a deed after the period of redemption provided for in section seventy-four has expired, and that if the sale is not confirmed the money will be returned. As soon as possible after the conclusion of any sale, and within twenty
Report of sale.	days after the day named in the notice for the commencement thereof, the county treasurer shall make and file with the clerk of the court a report of such sale, therein referring to such tax record for the particulars thereof.
Confirmation.	All sales shall stand confirmed, subject to the right of redemption provided for in section seventy-four, unless objections thereto are filed within eight days after the time limited for filing such report, without the entry of
Sales set aside.	an order or further notice. The practice with reference to setting aside such sale shall be the same, so far as applicable, as in a sale in equity on the foreclosure of mortgages: <i>Provided</i> , No sale shall be set aside for inadequacy of price, except upon payment of amount bid upon
Proviso.	

such sale with interest and costs: *And provided further,* That no sale shall be set aside after confirmation, except in cases where the taxes were paid, or the property was exempt from taxation. In such cases the owner of such lands may move the court at any time within one year after he shall have notice of such sale, to set the same aside, and the court may so order upon such terms as may be just. As soon as sales are confirmed, the county treasurer shall make full reports of the same to the Auditor General, giving a description of the property sold, the amounts for which the same was sold, and the names of the purchasers, and thereupon the Auditor General shall, after the period of redemption provided in section seventy-four has expired, execute deeds to the purchasers in such form as shall be determined by him. All lands bid off in the name of the State shall continue liable to be taxed in the same manner as if they were not the property of the State, except as hereinafter provided. If from any cause the lands or any parcel thereof decreed for sale by the Auditor General shall not be sold as advertised, it shall be the duty of the Auditor General to cause sale to be made at such other time as he may fix for that purpose, of which notice shall be published at least four weeks prior to such day, and such notice shall contain a description of the lands and the amount claimed thereon, as hereinbefore provided in the first instance. The sale and all proceedings thereon shall be the same as if made on the first day fixed therefor: *Provided,* That if any parcel sold under the provisions of this section shall also be offered at the same sale as State tax lands, the purchaser must also at the same time, become the purchaser from the State tax land list, and pay the taxes, interest and charges remaining unpaid thereon, and must pay all the remaining taxes assessed for the year for which he purchased, with interest thereon. All sales made in contravention of this requirement shall be void. The several county treasurers shall receive on such sale, only such funds as shall be receivable at the State treasury, and all moneys received at any tax sales that belong to the State shall be paid into the State treasury, on or before the first day of January next after the time of such sales, and the expenses of advertising and sale shall be paid therefrom on the warrant of the Auditor General, and the remainder shall be placed to the credit of the general fund.

County treasurer
to report sales.

Auditor General
to issue deeds.

Readvertised
sale.

Purchaser shall
also take from
State tax land
list.

Void sales.

Money receiv-
able.

Proceeds paid to
State treasury.

Payment of ex-
penses.

Certificate of
sale.

SEC. 71.* At the sale aforesaid the respective county treasurers shall give to the purchasers, on the payment of the bids, a separate certificate in writing for each parcel, describing the lands purchased and the amount paid therefor, the name of the person to whom the same was issued, the number, date and amount of each cer-

* As amended by Act 154, 1895.

tificate, and such certificate shall be regularly numbered and entered in the book kept for that purpose, and designated as the tax record. Such certificate shall be in substantially the following form:

Form.

STATE OF MICHIGAN, } ss.
COUNTY OF -----, }

County Treasurer's Office.....A. D. 18..

I, ..., county treasurer of the county of in said State, do hereby certify that I did, at public auction, pursuant to notice given as by law required, on this day of, A. D. 18.., sell to (of) (or to the State of Michigan) the lands herein described, for the sum of dollars and cents, said sum being the amount due and unpaid for taxes, interest and charges on said lands for the year of our Lord one thousand eight hundred and, that the said, his heirs or assigns, (or State assigns) will, if said sale stands confirmed, be entitled to a deed of conveyance of said lands, after the first Monday in December in the year following the sale thereof as herein evidenced, unless sooner redeemed from such sale according to law. Said lands are described as follows, with the sum for which they were sold, set opposite each description, that is to say: (Here insert description, and the amount bid therefor.)

....., *County Treasurer*.

Auditor General
to issue deeds.

Deeds entitled to
record.

Deeds convey
absolute title.

Writs of assist-
ance.

Loss of certifi-
cate.

SEC. 72. On presentation of such certificate of sale to the Auditor General or his deputy after the expiration of the time provided by law for the redemption of land sold as aforesaid, the Auditor General or his deputy shall execute and deliver to the purchaser, his heirs or assigns, a deed of the land therein described, unless the sale thereof shall have been redeemed or annulled as by law provided, which deed shall be entitled to record in the office of the register of deeds of the proper county, in the same manner and with like effect as other deeds duly witnessed, acknowledged and certified. Such deeds shall convey an absolute title to the lands sold, and be conclusive evidence of title, in fee, in the grantee, subject, however, to all taxes assessed and levied on such lands subsequent to the taxes for which the same was bid off. The courts may, on application, put the purchaser in possession of the premises by writs of assistance. In the case of the loss of such certificate of sale, the purchaser or his legal representative or assignee, may file his affidavit of such loss, and that he was at the time of such loss the *bona fide* and legal holder thereof; and the Auditor General or his deputy shall thereupon execute, as aforesaid, a deed for the lands described in such certificate, if the same shall not have been redeemed, in the same manner as though it had been presented and sur-

rendered; and if the same shall have been redeemed, on the presentation of such affidavit the money shall be paid to such person in the same manner as though the certificate of sale had been surrendered. Any person who shall make an affidavit as above required, or concerning any other matter which may be filed in the office of the Auditor General, shall be liable to the penalties of perjury for any false statement made in such affidavit with intent to defraud, upon conviction thereof, before a court having jurisdiction of the offense.

Refunding of redemption.

Penalty for false affidavit.

SEC. 73.* No sale of any lands or deed made by the Auditor General under the provisions of this act shall be set aside or annulled by any court of this State after the purchaser, his heirs or assigns have been in actual and undisputed possession of such lands so sold or conveyed, for a period of five years from the date of such purchase or deed. Whenever any sale made under this act is set aside by any court in a less time than five years, the court shall determine and decree the value of improvements made by the purchaser, if he has been in possession, and give judgment therefor, and issue execution to collect the same of the claimant before putting him in possession. If a sale made under this act is set aside by any court, the Auditor General shall refund to the purchaser the amount paid at the time of the sale, with interest thereon at the rate of eight per cent. per annum from the time of purchase to the time when said sale is set aside, out of the general fund of the State, and charge back to the county the portion of the same originally assessed for county and township taxes and the interest thereon.

No annulment after five years' possession.

Purchaser may recover for improvements.

Refunding on canceled sales.

OF REDEMPTION AND ANNULMENT.

SEC. 74.* Any person owning any of the lands sold as aforesaid, or any interest therein may, at any time before the first Monday in December in the year following such sale, redeem any parcel of such lands or any part or interest in such lands, by showing to the satisfaction of the county treasurer or Auditor General that he owns only that part or interest in the same which he proposes to redeem, by paying to the Auditor General or county treasurer the amount of the sale of the parcel of land, or the portion thereof wished to be redeemed, and interest thereon from the date of such sale. Upon the payment of the redemption money and interest thereon at eight per cent. per annum to the county treasurer as aforesaid, he shall issue a redemption certificate in duplicate in such form as may be prescribed by the Auditor General, both of which certificates shall be countersigned by the county clerk, who shall make an entry of the number of such certificate, the

Period of redemption.

Redemption certificates.

Notice of redemption.

* As amended by Act 154, 1895.

amount for which given, and the name of the person paying the same, one of which certificates shall be delivered to the person making such redemption payment, and the other shall be immediately transmitted to the Auditor General. The county treasurer shall also make a minute of such redemption certificate in the tax record book kept in his office, with the name of the payee, the date and amount paid. Such certificate or the duplicate, and the entry thereof by the clerk or county treasurer, shall be evidence of such redemption payment in the courts of this State. In case any such lands are redeemed at the office of the Auditor General, a notice containing all the above facts shall be sent to the county treasurer of the proper county, who shall cause the proper entries to be made on the tax record of his county and in the office of the county clerk.

Idem.

Copy of decree of annulment.

SEC. 75. Whenever any court of competent jurisdiction shall by decree annul any certificate executed by the county treasurer aforesaid or any deed issued by the Auditor General, the clerk of such court shall, on the payment, by any party interested, of fifty cents, deliver to such person a certified copy of such judgment, decree, or order, which certified copy of such judgment, decree or order shall be a proper subject of record in the office of the register of deeds of the county in which the land is situated, and on recording the same, the register shall enter in the margin of the record of the tax deed affected by such decree or record, a brief statement of such judgment, decree or order, and shall also send notice of such decree or order to the office of the Auditor General.

Subject of record.

Notice to Auditor General.

Tax held illegal, when.

SEC. 76. In any suit or proceeding to enforce or set aside any tax, such tax shall be held illegal only for one of the following reasons:

Unauthorized tax. No jurisdiction.

First, That no law authorizes such tax;

Second, That the person or persons appointed to decide whether a tax shall be raised under a given law, have acted without jurisdiction, or have not imposed the tax in question;

Exempt, etc.

Third, That the person or property assessed was exempt from the taxation in question or was not legally assessed;

Tax paid. Fraudulent assessment.

Fourth, That the tax has been paid;

Fifth, That the supervisor or board of review in assessing a person or property for taxation, or in the apportionment of the tax to the person or property in question acted fraudulently.

Other taxes sustained.

If any such illegality, omission or fraud affects the amount of one tax only, the tax shall be sustained so far as the same is legal and just.

Competent evidence.

SEC. 77. In the prosecution or defense of any action or proceeding by any person holding or claiming land under any deed or deeds of lands purchased for delinquent taxes, the party so claiming, under and by virtue of such purchase, may show his title to such land and

premises, whether the same was derived under one or more purchases, and may give in evidence any and all deeds of conveyance or other evidence of such purchases as aforesaid, which he may at any time have received, and may claim title under any or all of them.

OF TAX LANDS HELD BY THE STATE.

SEC. 78. All lands heretofore or that may be hereafter bid off to the State for taxes, which have not been redeemed or otherwise disposed of, shall be offered for sale by the county treasurer at the regular annual tax sales provided to be held under the provisions of this act. The Auditor General shall furnish to each county treasurer in the month of October prior to the month of December in the year in which such tax sales are held, as provided in this act, a statement of all lands in his county that may have been bid in for the State, then remaining unredeemed or not otherwise discharged. Such statement shall exhibit the aggregate amount of all sums due on each description of land, including interest thereon at the rate of eight per centum per annum from the time the land was bid in to the State until the time of said annual tax sale heretofore provided for by this act.

Sale of State tax lands.

Auditor General to make statement.

SEC. 79. The Auditor General shall cause to be published for four weeks successively, which shall be construed to mean four publications once a week, next previous to the first Monday of December in the years provided by this act, a notice that the lands described in such statement will be offered for sale at public auction at the time and place designated for the regular tax sales. At the time and place designated in the notice, the county treasurer shall proceed to sell said lands last mentioned and continue the same from day to day, except Sundays, until the whole have been offered, and any person bidding on any of said lands, shall be subject to the requirements, provisions and penalties of section seventy of this act.

Notice of sale.

Requirements same as in sale of delinquent taxes.

SEC. 80. In all cases where a description of land is offered as State or county tax land, and the same description or any part thereof shall be offered in the list of lands delinquent for taxes, as provided in this act, the county treasurer shall inform the person bidding for the same of that fact, and such person shall be required to purchase said description at the same time, and if he refuses so to do, the treasurer shall refuse his bid, and shall again offer it as if no bid had been made thereon.

Purchaser must take entire State lien.

SEC. 81. The county treasurer shall, on payment of the purchase money of such sale, issue a certificate of sale to the purchaser, in such form as is prescribed by section seventy-one of this act, so far as the same may be applicable, number the same, and shall enter the name of the person to whom the same was issued, with the number,

Certificate of sale.

Record thereof.

date and amount thereof, in a book kept in his office for that purpose.

Auditor General to issue deeds.

SEC. 82. After the period of redemption provided for in this act shall have expired, the Auditor General, on presentation and surrender of such certificate, shall issue to the purchaser, his heirs or assigns, a deed of conveyance, except when the same has been redeemed or has been bid off to the State for another tax, and in case of redemption the amount of the redemption shall be paid to such person: *Provided*, That such deed shall have the same force and effect as is given by section seventy-two of this act.

Proviso.

Affidavit of loss of certificate.

SEC. 83. In case of the loss of such certificate of sale, the purchaser, or his legal representative or assigns, may file his affidavit, duly verified, of such loss, and that he was, at the time of such loss, the *bona fide* and legal holder and owner thereof. The Auditor General shall thereupon execute, as aforesaid, a deed for the land described in said certificate, if the same shall not have been redeemed, in the same manner as though it had been presented and surrendered. The Auditor General shall execute a second deed of lands conveyed as herein provided, in all cases in which he shall be satisfied, by sufficient proof, that the original deed and record thereof has been lost or destroyed, which said deed shall declare upon its face that it is a second deed, and shall recite the loss or destruction of the former deed and its date, if possible. Such deed shall inure to the benefit of the grantee in the first deed, his heirs or assigns, as the case may be, and shall have the same force and effect as said first deed. Before the execution of such deed, the party applying therefor shall pay to the Auditor General the sum of one dollar, which shall belong to the general fund of the State.

Deed on affidavit of loss.

Second deed to replace loss.

Fee.

Purchase of State tax land or State bids.

SEC. 84.* Any person may purchase any State tax lands or any State bids by paying therefor the amount for which the same was bid off to the State, with interest on the same at the rate of eight per cent. per annum from date of sale, together with the other taxes remaining a lien on such lands at the time of the purchase so made, with the interest thereon at the rate provided in this act. Upon making payment as above such purchaser shall be entitled to and receive a certificate, and a deed conveying all the right, title and interest of the State to such tax lands acquired or accrued by virtue of the original sale or sales to the State. All the provisions of law relative to deeds executed by the Auditor General on the surrender of certificates of sale made by the several county treasurers shall be applicable in making deeds for such purchases.

Certificate and deed.

Sale no bar to subsequent taxes.

SEC. 85. Neither the sale of State tax lands, nor the sale of any of the bids of the State for which the time

* As amended by Act 154, 1895.

of redemption has not expired, shall in anywise prejudice the right to enforce the collection of any tax subsequent to the year or years for which the same has been sold as aforesaid, and, for the taxes and charges remaining unpaid for said subsequent year or years, the Auditor General shall cause such lands to be offered in regular succession at the next ensuing annual sales for taxes, giving notice as required by law, unless previously redeemed or otherwise discharged.

SEC. 86. In all cases where it shall become necessary, Adverse claim. in the prosecution of an action of ejectment by any person holding an adverse claim to any lands hereafter bid in for the State as provided in this act, the Auditor General may be defendant, and in all cases in the prosecution or defense of an action of ejectment or trespass by any person holding or claiming land under any deed or deeds or other conveyance of land bid off or purchased for delinquent or unpaid taxes, the party reclaiming under and by virtue of such purchase for unpaid taxes may show Evidence. his title to said land and premises, whether the same was derived under one or more purchases or sales for taxes or otherwise, and may give in evidence any and all deeds of conveyance or other legal evidence of such purchase as aforesaid, which he may have received on sales for taxes, and may claim title under any or all of them: *Provided,* Proviso. In no case shall the State or county be required to refund any taxes or money by reason of defect in said taxes or sales, prior to the particular tax or deed which may be decreed valid.

OF ACCOUNTS AND SETTLEMENT THEREOF.

SEC. 87.* The accounts between the State, county and Tax accounts. each township shall be adjusted on the basis of crediting and paying to each the taxes collected by and for each, with the interest thereon. The Auditor General shall, on Auditor General's quarterly statement, the first days of January, April, July and October in each year, make a statement of account between the State and each county respectively, and render the same to the county treasurer of each county, and draw his warrant on the State Payments to county, etc. Treasurer, payable to such county treasurer, for all moneys in the State treasury collected for county, township, school, highway, or any other purposes for such county or any township or district thereof, and transmit such warrant to the county treasurer, and a notice to the county clerk thereof. At the same time the county treasurers shall Payment to State. pay to the State all moneys collected and due from their respective counties to the State as shown by such account so rendered by the Auditor General to be due to the State: *Provided,* That the county treasurers shall pay to the State on or before the first day of January next after

* As amended by Act 154, 1895.

the time of such sales the State's portion of the proceeds of the annual tax sale held in the month of December in each year, as provided in section 70 of this act.

Accounts between county and townships.

The county treasurer of each county shall, on or before the first days of February, May, August, and November in each year, make out a statement of the account between the county and the several townships, and render the same to the township treasurer, and pay all moneys shown by such statement so rendered to be due the township to the proper receiving officer of the township, and notify the township clerk of the items and total amount thereof. The county clerk shall charge such amounts to the county treasurer, and the township clerks shall charge such amounts to the township treasurer on the books of their respective offices.

Duties of county and township clerks.

Report of tax payments and sales.

SEC. 88. The Auditor General shall, on the first Monday in each month, transmit to the treasurer of each county a list of the lands therein upon which the taxes have been paid to the State Treasurer, and also a list of all lands bid in to the State which have been sold during the preceding month, and upon receiving such lists the county treasurer shall make the proper entries showing such payment or sale. Where a sale has been made by the Auditor General the county treasurer shall note the fact upon the tax record.

County treasurer to note sales on tax record.

Interest and collection fee.

SEC. 89. To all taxes unpaid on the first day of March next after their assessment there shall be added interest at the rate of eight per centum per annum, and to all taxes returned to the county treasurer there shall also be added a collection fee of four per cent. Such interest and collection fee shall be collected with such taxes and the interest and taxes to be paid to the State, county and township, in proportion to their several rights therein. The collection fee paid to the county treasurer shall belong to the general fund of the county, and that paid to the Auditor General shall belong to the general fund of the State. No other charges shall be added to any taxes voluntarily paid either to the township treasurer, the county treasurer or the State Treasurer, except the expense after it accrues under section fifty-nine of this act.

Part of public funds.

Accrued expense.

Compensation of officers.

SEC. 90. All compensation of officers in the assessment and collection of taxes in townships and in the return of delinquent taxes to the county treasurer, except fees collected by township treasurers on their tax rolls, shall be paid by the township. All compensation of county officers and expense incurred by them under the provisions of this act shall be paid by the county, and the compensation of all State officers and expenses by them incurred or paid, shall be paid by the State. Expenses made by the State officers shall be audited by the Auditor General and paid out of the general fund.

Losses by default.

SEC. 91. All losses that may be sustained by the default of any township officer in the discharge of any

duty imposed by this act, shall be chargeable to such township. All losses by default of any county officer shall be chargeable to such county, and all losses by default of any State officer shall be chargeable to the State.

MISCELLANEOUS PROVISIONS.

SEC. 92. The Commissioner of the State Land Office shall, during the month of March in each year, furnish to the several county treasurers a list of all part paid State lands, and also of all licensed homestead lands that have been licensed for a term of five years and over, and upon which patents have not been issued, together with the date of each license and the name of the licensee, in their counties respectively, and such treasurers shall, on or before the tenth day of April next thereafter, cause to be delivered to the supervisor of each township affected thereby an accurate description of all such lands in his township, with the names of the persons holding the same.

Part paid State lands.

Licensed homestead lands.

Lists to be furnished to supervisors.

SEC. 93. Every county treasurer shall, before entering upon the duties of his office, execute to the Auditor General a bond, in such sum as the said Auditor General shall direct, with three or more sureties, to be approved by the prosecuting attorney, judge of probate, and the county clerk of the proper county, or any two of them and the Auditor General, conditioned that such treasurer, his deputy, and all persons employed in his office, shall render a just and true account of all moneys received by him or them belonging to the State, and that he or they shall faithfully and promptly pay to the State Treasurer all such moneys received as aforesaid according to law, which bond shall be filed in the office of the Auditor General. Whenever the Auditor General shall deem proper, he may require of the county treasurer a new bond with surety or sureties to be approved as aforesaid, and for such sum as he may deem necessary, and if the county treasurer from whom a new bond shall be so required shall not execute such a bond within ten days after he shall have received notice of such requirement, such failure may be deemed sufficient cause for the removal from office of such treasurer.

County treasurer's bond.

Who to approve.

Conditions.

Auditor General may require new bond.

Cause for removal of county treasurer.

SEC. 94. In case the said county treasurer shall refuse or neglect to execute and file any such bond at the time and in the manner aforesaid, the Auditor General shall employ, in behalf of the State, some other person to conduct the sales of lands delinquent for taxes, and to receive payment therefor, under his direction, upon such person executing and filing with the said Auditor General, a similar bond with sureties as above mentioned, to be by him approved, conditioned for the faithful and prompt payment

Employment of other person to conduct sales, when.

Bond.

Conditions.	to the State Treasurer of all moneys which may come into his hands as the proceeds of such sales or otherwise, and a
Compensation.	reasonable compensation for the services of such person shall be allowed and paid out of said proceeds.
Authority to withhold from sale.	SEC. 95. If the Auditor General shall discover before the sale of any lands, as aforesaid, that for any reason they should not be sold, he shall cause the same to be withheld from sale; and if the error originated with the township or
Taxes charged county and townships, when.	county officers the amount of such taxes shall be charged against the county from which the same was returned; if such error was made by a township officer the amount thereof shall be charged by the county treasurer to the township in which such error occurred. If there has been
Change in boundaries.	a change in the boundaries of any county or town in which the lands are situated after the return of such taxes, such rejected taxes shall be charged to the county to which the lands belong at the time of such rejection.
Statement of rejected taxes.	SEC. 96. The Auditor General shall prepare and forward to the county treasurer a statement of such rejected taxes, and a description of the lands upon which the same were assessed; and such county treasurer shall lay the same before the board of supervisors at their next session thereafter, and if such taxes shall have been rejected or charged back by the Auditor General, except for the reason that such land was not subject to taxation at the time of the assessment for such taxes, or that the taxes thereon had been paid, or that there had been a double assessment thereof, the board of supervisors shall cause
Reassessment of rejected taxes.	the same to be reassessed upon the same land, and collected with the taxes of the then current year, and in the same manner. If such taxes cannot be properly reassessed upon the same lands, the board of supervisors shall cause the same to be reassessed upon the taxable property of the proper township.
Detached lands.	SEC. 97. It shall be the duty of the board of supervisors to furnish to the Auditor General a list of all taxes which shall have been rejected or charged back to their county by him, upon lands which shall have been detached from such county subsequent to the time when such taxes were assessed, and the Auditor General shall thereupon credit to such county the amount which he may have so far charged back, and charge the same to the county in which such lands may then be situated:
Proviso.	<i>Provided</i> , Such taxes shall not have been previously paid or reassessed.
Errors discovered before transfer.	SEC. 98.* Whenever any lands returned to the office of the Auditor General, or to the county treasurer during the life of the tax law of 1891, shall have been sold on account of non-payment of taxes thereon, if the Auditor General shall discover, before a conveyance of said land is executed and delivered:

* As amended by Act 154, 1896.

First, That the land so sold was not subject to taxation at the date of the assessment of the taxes for which it was sold; or If not subject to taxation.

Second, That the taxes had been paid to the proper officer within the time limited by law for the payment or redemption thereof; or If taxes paid.

Third, That such sale was in contravention of any of the provisions of this act; or Illegal sales.

Fourth, That a certificate that no taxes were charged against said lands has been given by the proper officer, within the time limited by law for the payment or redemption thereof, the Auditor General shall withhold a conveyance of such lands, and shall, on demand, cause the money paid therefor to be refunded to the purchaser, with interest thereon at eight per cent. per annum: If certificate of "no taxes."

Provided, That in the last mentioned case the person in whose behalf such certificate was given, shall, at the time of presenting such certificate to the Auditor General, pay to the State Treasurer, on the statement of the Auditor General, all taxes and charges due to the State upon such land at the time such certificate was issued. Conveyance withheld.

If the discovery is not made until after conveyance has been executed and delivered, a certificate of error may be issued in proper form for record; and the deed, if not recorded, shall be surrendered when the purchase money is refunded. If the deed has been recorded the money shall be refunded on a recorded release from the holder of the tax deed. Proviso.

SEC. 99. No tax assessed upon any property, or sale therefor, shall be held invalid by any court of this State on account of any irregularity in any assessment, or on account of any assessment or tax roll not having been made or proceeding had within the time required by law, or on account of the property having been assessed without the name of the owner, or in the name of any person other than the owner, or on account of any other irregularity, informality, or omission, or want of any matter of form or substance in any proceeding that does not prejudice the property rights of the person whose property is taxed; and all proceedings in assessing and levying taxes and in the sale and conveyance therefor, shall be presumed by all the courts of this State to be legal, until the contrary is affirmatively shown. All records, statements and certificates herein provided for shall be *prima facie* evidence of the facts therein set forth. The absence of any record of any proceeding or proceedings or the omission of any mention in any record of any vote or proceeding, or of mention of any matter in any statement or certificate that should appear therein under the provisions of any law of this State, shall not affect the validity of any proceeding, tax, or title depending thereon, provided the fact that such vote or proceeding was had or tax authorized is shown by any other record, statement or certificate made evidence by the Certificate of error.

Refunding on release.

Irregularities not prejudicial to property rights of owner shall not invalidate tax.

Records, etc., evidence.

Absence or omission of records, etc.

Regularity presumed.	terms of this act or any other law of this State. No tax, or sale of property for any tax, shall be rendered or held invalid by showing that any record, statement, certificate, affidavit, paper or return cannot be found in the proper office; and unless the contrary is affirmatively shown, the presumption shall be that such record was made, and such certificate, statement, affidavit, paper or return was duly made and filed. Where any statement, certificate, or record is required to be made or signed by a school district board or a township board, such statement, certificate or record may be made and signed by the members of such boards, or a majority thereof, and it shall not be necessary that other members be present when each signs the same. The provisions of this section shall not be construed to authorize any showing impeaching the validity of any deed executed by the Auditor General under the provisions of this act, but such deed shall be held absolute and conclusive as herein provided.
Signing of records, etc.	
Auditor General's deed unimpeachable.	
Duties of prosecuting attorney.	SEC. 100. It shall be the duty of the prosecuting attorney of each county to give his counsel and advice to the county treasurer, the township treasurers, and the supervisors of the county whenever they or any of them may deem it necessary for the proper discharge of the duties imposed upon them in this act free of charge.
Deed to deceased person, etc.	SEC. 101. In all cases of sale of lands for taxes, if the purchaser or his assigns shall die before a deed shall be executed on such sale, the deed may be executed by the Auditor General, to and in the name of the deceased person, if such deceased person being still alive would be entitled to a deed, which deed shall vest the title in the heirs or devisees of such deceased person, in the same manner, liable to like claims of creditors and other persons as if the same had been executed to said deceased person immediately previous to his death, or the executor or administrator may assign the certificate of purchase and the deed may issue to the assignee thereof, and in like cases which have heretofore occurred, the same rule shall apply, and all deeds heretofore issued in the name of any person deceased who, if living at the time of the execution thereof, would have been entitled thereto, shall have like effect as above provided.
Return of delinquent tax on State lands.	SEC. 102. The county treasurer shall, at the same time when he makes his return of delinquent lands to the Auditor General, make a similar return to the Commissioner of the State Land Office of all homestead and part paid State lands, the fee of which is in the State, the taxes upon which have not been collected, with a statement of the amount thereof. The Commissioner of the State Land Office shall provide suitable books, and enter in the same the description of every parcel of land so returned to his office, and the taxes thereon. The person holding such interest in any parcel of said lands shall, on or before the first day of July following such return, pay to the State
Forfeiture for non-payment.	

Treasurer the taxes assessed thereon, with interest at the rate of eight per cent. per annum from the first day of March last preceding; and in default thereof the certificate of purchase of such parcel shall become void and such land shall be subject to sale and redemption in the same time and manner as lands forfeited for non-payment of interest; and no patent shall be made of such lands until all taxes thereon are paid.

SEC. 103. The Commissioner of the State Land Office shall, on or before the first day of May and November in each year, make out and furnish to the Auditor General a statement containing a description of the lands upon which the taxes have been paid, and the amount of such payments, and shall, at the same time, transmit to each county treasurer a copy of such statement so far as the same relates to his county. The Auditor General shall credit to each county its proper part of such taxes, and the county treasurer shall credit each township with its share of such amount.

Report of taxes paid on State lands.

Credit of taxes.

SEC. 104. If any person dispossessed of lands purchased in pursuance of the provisions of this act shall have made improvements thereon, he shall be entitled to recover what such improvements are worth, and shall have a lien on such lands therefor, and may enforce the same by bill in equity where no other provision is made by law.

Lien for improvements.

SEC. 105. In case of the organization of a new county after the time for making the assessment roll, and prior to the return of the township treasurer, such new organization shall in no way affect the assessment, collection or return of taxes for that year on any lands attached to the new county. No division of a township after the time for making the assessment roll, and prior to the return of the township treasurer, shall in any way affect the assessment, collection and return of such taxes; but such taxes shall be assessed, collected and returns made as though there had been no such division. If lands are detached from any county after the taxes thereon are returned to the Auditor General, and any such taxes are afterwards rejected or set aside, the county from which they were detached shall receive credit, and the county to which they are attached shall be charged, as may be proper under the provisions of this act.

Reorganization of counties and townships.

SEC. 106.* The taxes on any lands returned as delinquent may be paid to the county treasurer or to the State Treasurer at any time prior to the day of sale. After such petition is filed with the county clerk, payment of part of the taxes therein specified shall not stay proceedings thereon to enforce payment of such part of such taxes as are not paid, but such proceedings shall continue as to all unpaid taxes as herein provided.

Payment before sale.

Part payment does not stay proceedings.

SEC. 107. This act shall be applicable to all cities and villages where not inconsistent with their respective char-

Municipal charter provisions.

* As amended by Act 154, 1893.

Municipalities included.	ters. With such exceptions, the provisions herein as to supervisors, township treasurers, and boards of review, shall include all assessing and collecting officers, and all boards whose duty it is to review any assessment roll. The word township may include city, ward or village. When, by the charter or ordinances of any city or village, delinquent taxes or assessments are returned with other taxes to the county treasurer, such city or village shall not be entitled to payment of or credit for the same until the money has been received, notwithstanding anything in their respective charters to the contrary: <i>Provided,</i>
Board of review in cities.	That in any incorporated city, the charter of which does not provide for a board of review, such board shall consist of the several supervisors or other officers making the assessment, the city attorney, and additional members to be appointed by the common council, who shall not be aldermen, equaling the number of supervisors or assessing officers. The session of said board of review shall be held at the council room on the same days as designated in this act for the meeting of the township board of review, and the proceedings thereof conducted, as near as may be, in the same manner. Said board shall elect a chairman and clerk, who shall certify to the correctness of the several assessment rolls when completed, substantially as the form prescribed in sections twenty-nine and thirty of this act. The appointed members of said board of review shall take the constitutional oath of office, which shall be filed in the office of the city recorder or clerk.
Sessions and proceedings.	SEC. 108. The authorities of any city or village, the charter of which does not so provide, may provide by ordinance for the return of all unpaid taxes on real property to the county treasurer in the same manner, and with like effect, as returns by township treasurers. The taxes thus returned shall be collected in the same manner as other taxes returned, as provided in this act. The authorities of any city or village which, by its charter, has the right to sell lands for unpaid taxes or assessments, may provide for judicial sale of such lands. Such sale shall be made on petition filed in behalf of the city or village in interest, and shall conform, as near as practicable, to the provisions as to sale in this act.
Certification of rolls.	SEC. 109. When an officer is authorized to do any act his deputy shall have the same authority, and such officer shall be responsible for the acts of his deputy.
Oath of office.	SEC. 110. Supervisors shall be allowed for their services in assessing property, making tax rolls, and for extending taxes thereon, at the rate of two dollars for each day actually and necessarily spent in making the same; the members of the board of review shall be paid at the same rate per day for each day actually and necessarily spent in the attendance upon the board; the accounts for such services shall be verified, audited and paid as other township expenses. County officers shall be paid for services
Return of city and village taxes.	SEC. 111. The county treasurer shall be allowed for his services in receiving and returning taxes, at the rate of two dollars for each day actually and necessarily spent in making the same; the members of the board of review shall be paid at the same rate per day for each day actually and necessarily spent in the attendance upon the board; the accounts for such services shall be verified, audited and paid as other township expenses. County officers shall be paid for services
Collection thereof.	SEC. 112. The county treasurer shall be allowed for his services in receiving and returning taxes, at the rate of two dollars for each day actually and necessarily spent in making the same; the members of the board of review shall be paid at the same rate per day for each day actually and necessarily spent in the attendance upon the board; the accounts for such services shall be verified, audited and paid as other township expenses. County officers shall be paid for services
Judicial sale.	SEC. 113. The county treasurer shall be allowed for his services in receiving and returning taxes, at the rate of two dollars for each day actually and necessarily spent in making the same; the members of the board of review shall be paid at the same rate per day for each day actually and necessarily spent in the attendance upon the board; the accounts for such services shall be verified, audited and paid as other township expenses. County officers shall be paid for services
Acts of deputies.	SEC. 114. The county treasurer shall be allowed for his services in receiving and returning taxes, at the rate of two dollars for each day actually and necessarily spent in making the same; the members of the board of review shall be paid at the same rate per day for each day actually and necessarily spent in the attendance upon the board; the accounts for such services shall be verified, audited and paid as other township expenses. County officers shall be paid for services
Compensation of county and township officers.	

under this act by salary or otherwise as the board of supervisors shall determine: *Provided*, That all cities in this State shall be exempted from the provisions of this section, and the common council shall have power to fix and determine the compensation of the city assessor and of his assistants and of the boards of review, boards of estimates, and all other like officers.

Provide as to certain cities.

SEC. 111. Any township treasurer, with the consent of the township board, may appoint a deputy, who shall possess all the powers and may perform all the duties of the treasurer. Such township treasurer and his bondsmen shall be liable for all the acts and defaults of such deputy treasurer. Such deputy shall be paid by the treasurer.

Deputy township treasurer.

SEC. 112. If at any time it shall be discovered that the treasurer of any township has received the tax assessed upon property which has been returned delinquent, the supervisor shall have power, and he is hereby required to collect the same, in the name of his township, from such treasurer or his sureties, together with interest and charges.

Tax payments unaccounted for.

SEC. 113.* It shall be unlawful for any person to cut or remove any logs, wood or timber from any lands sold and bid in by the State of Michigan, for the non-payment of taxes, while the State remains the owner of such lands or the holder of any tax lien thereon by virtue of such sale, and if any person shall cut, or remove such logs, wood, or timber from such lands during the time aforesaid, the

Removal of timber from State tax lands.

Auditor General or his deputy shall issue a warrant under his hand, in the name of the people of the State of Michigan directed to the sheriff of the county where such lands are situated, giving therein a description of such lands, the amount of such taxes, with interest and charges thereon, then remaining unpaid, commanding such sheriff forthwith to seize such logs, wood, or timber wherever the same may be found in any county in this State, and to sell the same, or a sufficient quantity thereof to satisfy such taxes, with the interest and charges thereon and the cost of such seizure and sale. The sheriff shall receive such warrant and execute the same as therein directed, as in case of levy and sale on execution, and make return thereof with his doings thereon to the Auditor General, within sixty days after the receipt of the same, and pay over all money collected thereon to the State Treasurer. The Auditor General may furnish the State Trespass Agent with lists or plats of land bid in by the State and remaining unpaid, and the said Trespass Agent shall examine such lands and promptly report to the Auditor General all violations of the provisions of this section. The sheriff and county treasurer of each county are hereby directed to report all such trespass, prohibited by this section, to the Auditor General, immediately, whenever they shall have knowledge of the same, and any county

Warrant of Auditor General for seizure, etc.

Duties of sheriff.

Return of doings.

Examination of lands by trespass agent.

Report of trespass.

* As amended by Act 154, 1896.

Duty of county and township officers.

No injunction to stay.

Injunction to restrain waste.

Willfully erroneous assessment.

Penalty.

Willfully erroneous review.

Penalty.

Failure to record payment.

Penalty.

Willful false swearing perjury.

Official neglect.

Penalty.

Report of stockholders of banks.

or township officer having knowledge of such trespass shall report the facts to the sheriff or county treasurer.

SEC. 114. No injunction shall issue to stay proceedings for the assessment or collection of taxes under this act.

SEC. 115. The holder of any certificate of sale shall, at any time after its issue, have the right to an injunction to restrain waste on any of the lands described in such certificate where such lands are valuable for timber, and the circuit court in chancery of the county in which such lands are situated shall have jurisdiction to grant such relief on bill or petition, where no other relief is sought.

SEC. 116. If any supervisor or other assessing officer of any township or city shall willfully assess any property at more or less than what he believes to be its true cash value, he shall be guilty of a misdemeanor, and on conviction thereof he shall be punished by imprisonment in the county jail not exceeding one year, or by fine not exceeding three hundred dollars, at the discretion of the court.

If any board whose duty it is to review the assessment of an assessing officer shall willfully assess property at more or less than its cash value, the members voting in favor of such action shall severally be guilty of a misdemeanor, and on conviction shall be punished by imprisonment in the county jail not exceeding six months, or by fine not exceeding three hundred dollars, at the discretion of the court.

SEC. 117. If any officer to whom any tax is paid shall fail to make proper entry and return of such payment, he shall be liable to any person injured, for the full amount of the injury, and if such failure is willful he shall be deemed guilty of a misdemeanor, and shall, on conviction thereof, be punished by imprisonment in the county jail not more than six months or by fine not more than three hundred dollars.

SEC. 118. Any person who, under any of the proceedings required or permitted by this act shall willfully swear falsely, shall be guilty of perjury and subject to its penalties.

SEC. 119. Any officer who shall willfully neglect, or refuse to perform any of the duties imposed upon him by this act shall, when no other provision is made herein, be guilty of a misdemeanor, and upon conviction thereof shall be punished by imprisonment in the county jail not exceeding six months, or by fine not exceeding three hundred dollars, in the discretion of the court, and shall be liable to any person injured thereby to the full extent of the injury sustained.

SEC. 120.* The cashier of every bank, the capital of which is represented by shares of stock, shall, on the second Monday of April in each year, file in the office of the county clerk of the county where the bank is located, a list of the names of the stockholders, the amount

* As amended by Act 154, 1895.

of stock held by each on the day said report is made, and their respective residences. Immediately after the filing of such statement the county clerk shall notify the supervisor of each township, of the name of each person, if any, residing in his township, holding shares of stock in any such bank, and of the amount thereof as shown by such statement. If the cashier of any bank shall willfully neglect or refuse to make and file in the office of the county clerk, a list of the names of stockholders, the amount of stock held by each, and their respective residences, as provided in this act, or shall willfully make and file any false entry in any such list, he shall be guilty of a misdemeanor, and upon conviction he shall be punished by fine not exceeding five hundred dollars or by imprisonment in the county jail not to exceed a period of six months, or by both such fine and imprisonment in the discretion of the court. If the president, secretary or chief accounting officer of any corporation, company or association, or any representative thereof, shall willfully neglect or refuse, or shall make and verify any false statement to any assessing officer, the intention or effect of which may be to escape taxation, such person shall be guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of not less than one hundred nor more than five hundred dollars, or by imprisonment in the county jail not to exceed a period of six months, or by both such fine and imprisonment in the discretion of the court. And any person who shall willfully make and verify any such statement with the effect or intention to evade taxation, shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine not to exceed three hundred dollars, or by imprisonment in the county jail not to exceed a period of six months, or by both such fine and imprisonment in the discretion of the court.

County clerk to
notify super-
visors.

Willful neglect
by bank cashier.

Penalty.

Willful miscon-
duct by corpora-
tion officer.

Penalty.

Evasion of
taxation.

Penalty.

Sec. 121. The Auditor General shall, from time to time, as he may deem necessary, cause to be printed at the expense of the State, a sufficient number of copies of this act, and such other laws in force relating to the taxation of property, as may be requisite to a full understanding of all the duties of assessing officers, or other State, county or township officers, with proper side notes, index and forms of proceedings, as may be necessary and proper; to furnish one copy to each supervisor, assessor, township clerk and county clerk, and three copies to each county treasurer. Each copy shall be marked "State property." He shall transmit to each county treasurer, at the expense of the county, a sufficient number of copies for each county, and every county treasurer shall immediately furnish to the township clerk of each township five copies, to be distributed by him to the officers entitled thereto. The Board of State Auditors shall exam-

Auditor General
to publish tax
laws.

Distribution

Board of State auditors to audit certain claims. ine and audit all properly certified claims for services rendered and expenses incurred under the provisions of sections 121, 127 and 128 of this act.

Blanks, etc., furnished by Auditor General. SEC. 122. It shall be the duty of the Auditor General to provide and furnish in due season to the several county clerks and treasurers, at the expense of the State, all forms, blanks and record books made necessary by this act.

Return of taxes of 1891 and 1892 to Auditor General. SEC. 123. In order to perfect the record of taxes in the office of the Auditor General, and for the other purposes of this act, it shall be the duty of each county treasurer, immediately after the passage of this act, to make a full and complete transcript and return of all lands returned as delinquent for taxes for the years one thousand eight hundred and ninety-one and one thousand eight hundred and ninety-two, not already made, and a full and complete transcript of all moneys received, sales made and recorded, and all other things had or done under the provisions of act number two hundred of the public acts of eighteen hundred and ninety-one, entitled "An act to provide for the assessment of property and the levy of taxes thereon and for the collection of taxes heretofore and hereafter levied, and to repeal act number one hundred and ninety-five of the session laws of one thousand eight hundred and eighty-nine, except as provided in this act, and all other acts and parts of acts in anywise contravening any of the provisions of this act," approved July seventh, eighteen hundred and ninety-one.

Return of doings of county treasurers.

Record of returns.

Copies of records, etc.

Duties of county clerks.

Supervisors to compensate treasurer and clerk.

Duties of Auditor General.

Not required to revise acts done under 1891 law.

Upon the receipt of such transcripts and lists, the Auditor General shall cause them to be recorded in his office, in the proper books therefor, as such delinquent tax lands were by law or custom recorded prior to the passage of such act above mentioned. The Auditor General shall require of each of the county treasurers of this State, and such county treasurers are hereby directed to furnish on demand copies of all records, decrees, certificates, redemptions, sales, minutes and information to enable the Auditor General to perfect such tax records in his office. A like demand may be made on each of the county clerks in this State and shall in like manner be complied with by each of such clerks. Each county treasurer and county clerk shall receive such reasonable compensation for the extra services required by this section as may be allowed by the board of supervisors, to be paid out of the county treasury.

SEC. 124.* From and after the passage of this act the Auditor General shall perform all the duties in relation to taxes levied, assessed, collected and returned delinquent, sold or to be sold as required by this act: *Provided*, It shall not be necessary for him to sell or order resold, advertise or readvertise, and revise or renew any act done by any officer or court under and by virtue of the said

* As amended by Act 154, 1895.

act heretofore mentioned in the preceding section, but all such proceedings and acts shall be recognized and held to be legal and valid under this act, subject, however, to the provisions of section 98 of this act. In all cases where deeds have been issued by county treasurers, any such deeds shall be valid and of such force and effect as if issued by the Auditor General, but the Auditor General may cancel any deed so made by any county treasurer, on the request of the holder thereof, and issue a new deed signed by the Auditor General or his deputy as in this act provided. And for all lands advertised and sold by any county treasurer under the authority granted in said act before mentioned, such advertisement and sale shall be held legal and valid, but all such proceedings and all proceedings necessary to be had hereafter in relation to such lands and taxes shall be had under the provisions of this act.

County treasurer's deeds valid.

Cancellation and reissue of deeds.

Sale under 1891 law valid.

All future proceedings to be under this act.

SEC. 125. All rights which may have accrued to any person, as well as all rights which have accrued or become vested in any individual, corporation, municipality, or the State, under any of the heretofore existing tax laws of the State which have been amended, modified, changed or repealed, shall not be affected, changed or destroyed, but the same shall remain in force, subject to review and enforcement in the courts of this State, and for the completion of all proceedings heretofore begun for the collection of taxes or the enforcement of all the requirements of such laws.

Vested rights undisturbed.

SEC. 126. That act number two hundred of the public acts of eighteen hundred and ninety-one, entitled "An act to provide for the assessment of property and the levy of taxes thereon, and for the collection of taxes heretofore and hereafter levied, and to repeal act number one hundred and ninety-five of the session laws of one thousand eight hundred and eighty-nine, except as provided in this act, and all other acts and parts of acts in anywise contravening any of the provisions of this act," approved July seventh, eighteen hundred and ninety-one, and all other acts and parts of acts in anywise contravening any of the provisions of this act, be and the same is hereby repealed: *Provided*, That such repeal shall not destroy or affect any rights which may have accrued or may hereafter accrue under such acts or parts of acts while the same were in force.

Act 200, public acts of 1891, repealed.

Contravening acts repealed.

Proviso.

INSPECTION AND DISPOSITION OF STATE TAX LANDS.

SEC. 127.* Whenever it shall hereafter appear that any lands delinquent for taxes have been bid off to the State for a consecutive period of more than three years, and that no application has been made to redeem or purchase the

Inspection of certain tax lands.

* As amended by Act 154, 1895.

Request of township board.	same, it shall be the duty of the Auditor General and the Commissioner of the State Land Office, when requested so to do by the township board of the township wherein such delinquent lands are situated, to cause an examination of such lands to be made as soon as practicable, to ascertain their value and the cause of the non-payment of taxes thereon, and if it shall appear that said lands
Barren, etc., lands.	are barren, swamp or worthless lands, and have been abandoned by the owner, upon a certificate being filed by the examiner to that effect, the Auditor General is hereby authorized to make a transfer by deed of the same
Transfer to State.	to the State, as to an individual, as provided in this act, which deed shall be recorded in the proper county, and a copy filed in the office of the Commissioner of the State Land Office, and said commissioner shall thereafter hold said lands as State lands, subject to sale as hereinafter provided, and failure to pay the taxes or to redeem or purchase any lands sold for taxes and bid to the State for more than three consecutive years as aforesaid, shall be, in all cases where such lands are not actually occupied, <i>prima facie</i> evidence that such lands are abandoned by the owner.
Evidence of abandonment.	SEC. 128. The Auditor General shall furnish a record book containing blank forms for recording such State tax deeds to the State, to each register of deeds in such counties as may be necessary for recording such deeds, and the register of deeds is hereby required to record the same in such record, and shall be entitled to receive the sum of twenty-five cents from the State for each such deed recorded therein.
Record of State tax deeds to State.	SEC. 129. The Commissioner of the State Land Office shall make a list or entry in books in his office of such lands, separate from other State lands, showing the amount of taxes due and the years for which such lands were delinquent for taxes, the date of inspection and by whom inspected, and when deeded to the State; also when, to whom, and upon what conditions sold or disposed of, as hereinafter provided.
Duty and fees of register.	SEC. 130. All taxes charged against such lands in the office of the Auditor General at the time they are deeded, shall be canceled, but no part of such taxes due to the townships or county shall be charged to the State, but each shall bear the share of loss in such taxes as properly belong to each, and the Auditor General shall make a list of all such lands in each county and shall transmit such list to the county treasurer, and shall direct such county treasurer to notify the board of supervisors at its next session that such lands belong to the State and are no longer taxable, and such board of supervisors shall cause all such lands so deeded and certified to said board to be stricken from the tax rolls of the several townships in their county, and said lands shall not be liable to any assessment for any purpose until the same
Record in State land office.	
Cancellation of certain taxes.	
Notification of county treasurers by Auditor General.	
State lands to be stricken from tax rolls.	

are again sold by the State and notice of such sale given to the county treasurer by the Commissioner of the State Land Office as hereinafter provided.

SEC. 131. All such lands shall be held by the Commissioner of the State Land Office subject to entry as homestead lands, and if any person shall apply for them or any part thereof, not to exceed in quantity two hundred and forty acres for any one person so applying, and shall file an affidavit that such person desires such lands for actual settlement, for the purpose of a homestead, the commissioner shall issue a certificate to such person for such land upon the payment of the sum of ten cents per acre, conditioned that such person shall reside continuously upon said lands for the period of five years, and improve the same and pay to the State annually the sum of ten cents per acre for five years. At the expiration of such five years, such person shall be entitled to make proof of the fulfillment of such contract in such manner as the said commissioner may prescribe. And when such proof is made to the satisfaction of said commissioner, such person shall be entitled to a deed of such land from the State. In default of making the payments herein required for thirty days after any payment shall be due, such certificate shall be void, and such land shall revert to the State, and the Commissioner of the State Land Office is authorized to enter such default in his records, and dispose of such lands to any other party on like terms and conditions.

Lands subject to homestead entry.

Conditions.

Final proof.

Default in payments.

SEC. 132. Lands held under such contracts shall not be assessed until the State has given title to the occupant thereof, but improvements upon any such lands may be assessed as personal property, as in the case of other part paid lands.

Improvements assessable.

SEC. 133. Whenever any person has perfected his title to any such lands and a deed for the same been issued by the State to such person, the Commissioner of the State Land Office shall so notify the county treasurer of the proper county that such lands are again and thereafter taxable as other lands, and they may thereafter be assessed to such owner or occupant as other lands are assessed for all purposes.

Notice of perfecting of title.

When assessable.

SEC. 134. All moneys received by said commissioner for such lands shall be turned over to the State Treasurer and placed to the credit of the general fund, and all expenses incurred shall be audited by the Board of State Auditors and paid out of the general fund.

Proceeds.

Expenses.

SUPPLEMENTARY.

Recording and
filing plat,
deeds, etc.

Register to re-
quire certificate
of payment of
taxes.

Noting certifi-
cate.

When register
shall refuse to
record.
Provide.

Penalty.

SEC. 135.* When any deed, land contract, plat of any town site, village, or addition to any town site, village plat or city, or any other instrument for the conveyance of title to any real estate, is presented to the register of deeds of any county in this State for record or filing in his office, he shall require from the person presenting the same a certificate from the Auditor General, or from the county treasurer of the county, whether there are any tax liens or titles held by the State, or by any individual, against such piece or description of land sought to be conveyed by such instrument, and that all taxes due thereon have been paid for the five years preceding to the date of such instrument, and in default of the presentation of such certificate he shall not record the same until such certificate is secured and presented. The register of deeds shall note the fact upon said deed that said certificate has or has not been presented to him when such instrument is presented for record, and in case the person presenting such instrument shall refuse to procure such certificate, he shall endorse that fact upon said instrument, over his official signature, and shall refuse to receive and record the same: *Provided*, That the provisions of this section shall not apply to the filing of any town or village plat for the purpose of incorporation, in so far as the land therein embraced is included in a plat already filed in the office of the register of deeds, or in so far as the description of lands therein is not changed by such plat, nor to the filing of any copy of the town, village or city plat in case the original plat filed in the office of such register of deeds has been lost or destroyed, nor to any sheriff's or commissioner's deed executed for the sale of lands under any proceeding in law, or by virtue of any decree of any of the courts of this State, nor to any deed of trust by any assignee, executor or corporation executed pursuant to any law of this State; nor to any quit claim deed or other conveyance containing no covenants of warranty; nor to any land patent executed by the President of the United States, or the Governor of this State, nor to any tax deed made by the Auditor General; nor to any deed executed by any railroad company conveying its right of way, provided such deed is accompanied by a certificate of the Auditor General showing that all specific taxes due from said railroad company have been paid, to and including the year in which such deed is executed. A violation of the provisions of this section by any register of deeds shall be deemed a misdemeanor, and upon conviction thereof he shall be

* As amended by Act 154, 1893.

finer not to exceed one hundred dollars, and he shall further be liable to the grantee of any instrument so recorded for the amount of damages sustained, to be recovered in an action for debt in any court of this State.

SEC. 136. [Provided for the purchase of lands held as State tax lands five years prior to 1890. The section expired by its own limitation Jan. 1, 1894.]

SEC. 137. The circuit court may, on application, put the purchaser of any land sold under the provisions of this act in possession of the premises by writs of assistance.

This act is ordered to take effect June 12, 1893.

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TAX LAW

1889

OF THE

STATE OF MICHIGAN,

AS ENACTED BY THE LEGISLATURE AT ITS REGULAR SESSION
A. D. 1889.

(ACT NO. 195, LAWS OF 1889.)

Published under the Supervision of the Auditor General.



BY AUTHORITY.

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DARIUS D. THORP, STATE PRINTER AND BINDER.
1889.

TAX LAW- 1853

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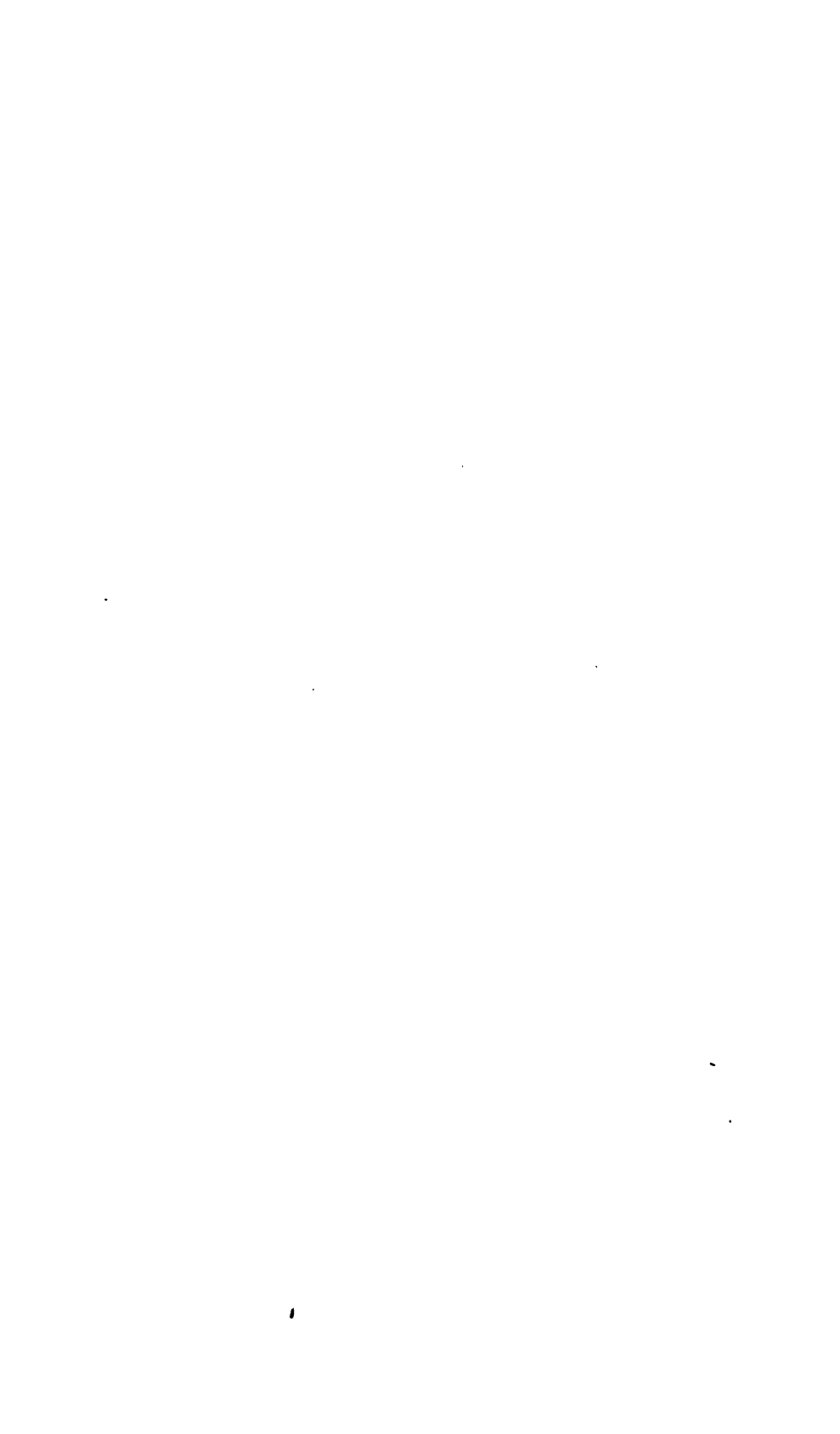
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TAX LAW
OF THE
STATE OF MICHIGAN.

(Act No. 195, Laws of 1892.)

[No. 195.]

AN ACT to provide for the assessment of property and the levy of taxes thereon, and for the collection of taxes heretofore or hereafter levied.

OF THE PERSONS AND PROPERTY LIABLE TO TAXATION.

SECTION 1. *The People of the State of Michigan enact*, That all property within the jurisdiction of this State, not expressly exempted, shall be subject to taxation. Taxation.

SEC. 2. For the purpose of taxation, real property shall include all lands within the State, and all buildings and fixtures thereon and appurtenances thereto, except in cases otherwise expressly provided by law; personal property shall include all goods and chattels within the State, all ships, boats and vessels belonging to inhabitants of this State, whether at home or abroad, and their appurtenances; all goods, chattels and effects belonging to inhabitants of this State, situate without this State, except that property actually and permanently invested in business in another State shall not be included; all indebtedness due to inhabitants of this State above the amounts respectively owed by them, whether such indebtedness is due from individuals or from corporations, public or private, and whether such debtors reside within or without the State; all shares in corporations organized under the laws of this State, when the property of such corporation is not exempt or is not taxable to itself; all shares in banks organized in this State, under any law of the United States, but in estimating the value of such shares, deduction shall be made of the value of all real estate taxed to the bank; all shares in foreign corporations, except national banks, owned by inhabitants of this State; all moneys; all annuities and royalties; all interests owned by individuals in lands, the fee of which is in this State or the United States, except as hereinafter provided. Property exempt from taxation by the laws of the United States shall not be included. Shares in corporations, the property of which is taxable to itself, shall not be assessed to the shareholder. Real property,
what to include.

Personal
property.

SEC. 3. The following property shall be exempt from taxation:¹ Exemptions.

Property
exempt.
Public property.
First, All public property belonging to the United States, to this State, or to any county, city, village, township, or school district within this State, save lands purchased at tax sales and still held by the State:

¹ See act 44, 1885, for exemption of property of agricultural societies. Sec. 18, act 2, 1886, for exemption of property for the cultivation of art, and act 124, 1890, for exemption of shares in and securities held by building and loan associations.

Benevolent,
etc., institu-
tions.

Second, The personal property of all posts of the Grand Army of the Republic, and of all library, benevolent, charitable and scientific institutions incorporated under the laws of this State, and such real estate as shall be occupied by them for the purposes for which they were incorporated;

Churches, etc.

Third, All houses of public worship, with the land on which they stand, the furniture therein, and all rights in the pews; and also any parsonage owned by any religious society of this State and occupied as such;

Cemeteries, etc.

Fourth, All property of cemetery associations and lands used exclusively as burial grounds, and the rights of burial therein and the tombs and monuments therein, while in use for that purpose:

Proviso.

Provided, That the stock of associations organized and carried on for private gain, and all tombs and vaults built within any burying grounds and kept for rent for the purpose of private gain or profit, shall be assessed as personal property;

Library books,
etc.

Fifth, Library or school books of the value of one hundred and fifty dollars, the personal wearing apparel of every individual, and all family pictures;

Furniture, etc.

Sixth, Furniture and utensils in use in any dwelling house, of the value of two hundred dollars; musical instruments not exceeding in value one hundred and fifty dollars, and other personal property owned and used by any householder in connection with his house or business, of the value of two hundred dollars;

Poor persons.

Seventh, The personal and real property of persons who, in the opinion of the supervisor, are, by reason of poverty, unable to contribute towards public charges.

Corporate prop-
erty, assessment
of, etc.

SEC. 4. All corporate property, except where some other provision is made by law, shall be assessed to the corporation as to a natural person in the name of the corporation. The place where its principal office in this State is situated shall be deemed its residence. The property of corporations paying specific taxes shall be exempt, as to the property covered by such taxation, except when otherwise provided by law. All other property of such corporation shall be taxed under this act. In computing the taxable property of insurance companies organized under the laws of this State, the value of the real property on which a company pays taxes shall be deducted from its net assets above liabilities, as determined and shown by the last report of the commissioner of insurance, and the remainder shall be the amount of personal property for which the company shall be assessed.

Exemption.

Insurance
companies.

Copartnerships,
how treated.

SEC. 5. For the purposes of assessing property and collecting taxes, a copartnership shall be treated as an individual, and whenever the name of the owner or occupant of property is required to be entered upon the assessment roll, if such property is owned or occupied by a copartnership, the firm name shall be used. A copartnership shall be deemed to reside in the township where its business is principally carried on. Each partner shall be liable for the whole tax.

Liability of
partners.

Real property,
where assessed,
etc.

SEC. 6. Real property shall be assessed in the place where situated, and to the owner, if known; if not, then to the occupant if

any, and if there be no occupant, then as unknown. An executor, administrator, guardian, or trustee, having control of real property, may be treated as its owner.

SEC. 7. The real property which belonged to a person deceased not being in the control of an executor or administrator may be assessed to his heirs or devisees jointly without naming them, until they shall have given notice of their respective names to the supervisor, and of the division of the estate.

Of deceased persons, to whom assessed.

SEC. 8. All licensed homestead lands, the fee of which is in the State or the United States, when the licensee is entitled to make his final proof to obtain a patent, shall be assessed, returned, and sold as other real property.

Homesteads.

SEC. 9. The interest in land of any person holding a part-paid certificate for the purchase of any State lands shall be assessed separate from other property. The assessment shall describe the land, and state therein that the title is in the State. The taxes, if not paid to the township treasurer, shall be returned and collected as hereinafter provided.

Part-paid certificates.

SEC. 10. All personal property, except as hereinafter provided, shall be assessed to the owner in the township of which he is an inhabitant, on the second Monday of April of the year for which the assessment is made.

Personal property, where assessed.

SEC. 11. The excepted cases referred to in the preceding section are as follows, viz.:

Exceptions.

First, All goods and chattels situate in some township other than where the owner resides shall be assessed in the town where situate, and not elsewhere if the owner or person having control thereof hires or occupies a store, mill, dockyard, piling ground, place for sale of property, shop, office, mine, farm, place of storage, manufactory or warehouse therein, for use in connection with such goods and chattels: *Provided*, That the procuring any such property to be manufactured upon contract shall be deemed to hire a mill or manufactory within the meaning of this section;

When situated in other townships.

Second, All animals kept throughout the year in some town other than where the owner resides shall be assessed to such owner, or the person in possession, in the town where kept;

Proviso.

Animals.

Third, All shares in banks shall be assessed to their owners in the town where the bank is located: *Provided*, That shares owned by a person residing within the county where the bank is located shall be assessed in the town where he resides;

Bank shares.

Proviso.

Fourth, Personal property of non-residents of the State and all forest products owned by residents or non-residents, or estates of deceased persons, shall be assessed to the owner or to the person having control thereof in the township or ward where the same may be, except that where such property is in transit to some place within the State, it shall be assessed in such place: *Provided*, All forest products in transit on the second Monday in April and thereafter found in the waters or streams of this State, or on the banks or shores of any lake, pond or stream of this State, when the same is not at the place where it is to be manufactured, shall be held to have a place of destination at the sorting grounds of the rafting and driving agents or booming company

Personal property of non-residents, and forest products.

Proviso.

Further provisio.	nearest the mouth of such stream, unless the contrary shall be made to appear by the owner or party having the same in charge: <i>Provided further</i> , That all lumber, logs, timber, lath, pickets, shingles, posts, cordwood, tanbark, telegraph or telephone poles, or railroad ties, that may be piled or left in any yard, railroad reserve, or in any shed, shall not be deemed in transit, but shall be assessed to the owner thereof in the township or ward where the same may be situate at the time provided for by law for taking any assessment;
Personal property of minors.	<i>Fifth</i> , The personal property of minors under guardian shall be assessed to the guardian in the town where he resides, and the personal property of every other person under guardianship shall be assessed to the guardian in the town where the ward resides;
Of deceased persons.	<i>Sixth</i> , The personal property belonging to the estates of deceased persons, in the hands of executors or administrators, shall be assessed to them in the town and in the school district where the deceased last dwelt, until they shall give notice that the estate has been distributed to the parties interested. If such deceased was a non-resident of the State, such property shall be assessed in the town where situated, to such executors, administrators, or to the person in possession;
Under control of a trustee, etc.	<i>Seventh</i> , Personal property under the control of a trustee or agent, whether a corporation or natural person, may be assessed to such trustee or agent, except as otherwise provided, in the town where he resides. Personal property mortgaged or pledged shall be deemed the property of the person in possession thereof, and may be assessed to him;
Situate on public lands, including buildings.	<i>Eighth</i> , All personal property of any person situate upon, also all buildings situate and being upon the lands of the United States, or of this State, shall be deemed personal property for the purposes of taxation and assessment, and shall be assessed as personal property to the owner or occupant thereof, in the city, village, or township to which such lands belong or form a part, and such buildings shall be subject to sale for taxes in the same manner as herein provided for the sale of personal property: <i>Provided, however</i> , It shall not be necessary to remove any such buildings for the purpose of sale.
Proviso.	

OF THE ASSESSMENT ROLL.

Supervisor to ascertain the taxable property.

To require detailed statement.

SEC. 12. It shall be the duty of each supervisor, as soon as possible after entering on the duties of his office, to ascertain the taxable property of his township, and the persons to whom it should be assessed, and their residences. For this purpose he shall require every person of full age and sound mind and the proper officer of every corporation, to make in writing a full and detailed statement under oath, signed by the person making it, of all the taxable property of such person or corporation, whether owned by him or it or held for the use of another, and it shall be the duty of every such person and corporation to furnish such sworn statement. The Auditor General is required to prepare and distribute to the county treasurers blanks for such state-

ments. These blanks shall be furnished by the county treasurer to the supervisors, and each supervisor is authorized to add to such blank any questions he may deem necessary. These statements shall show whether such property is owned by the person making the statement, or held for the use of another, and if the latter, in what capacity it is held. They shall show the indebtedness of any person so far as he wishes a deduction from his credits on account of such indebtedness. The cashier of every bank shall, on the second Monday of April in each year, file in the office of the county clerk of the county where the bank is located, a statement of all real estate held by the bank and its value, a list of the names of the stockholders, the amounts of stock held by each, and their respective residences. The statement aforesaid shall show the facts as they exist on the second Monday of April of the year when made. Immediately after the filing of such statement, the county clerk shall notify the supervisor of each township of the name of each person, if any, residing in his township holding shares of stock in any such bank, and of the amount thereof, as shown by such statement. All property shall be assessed as of the second Monday of April.

Blanks for, how furnished, etc.

What to show, etc.

Cashiers, duty of.

Of county clerk.

Date of assessment

SEC. 13. Every person required by this act to make or deliver such statement shall set forth an account of the property held or owned by him, as follows:

What statement to set forth.

REAL PROPERTY.

An accurate description of each parcel of land, with the number of acres, and the number of acres improved and the number and kind of buildings thereon.

Real property.

PERSONAL PROPERTY—CREDITS.

First, All annuities and royalties;

Annuities, etc.

Second, All bonds, notes, mortgages, accounts, demands, claims, and other indebtedness owing to such person, whether such indebtedness is due from individuals or from corporations, public or private, and whether such debtors reside within or without this State, including all deposits in banks or with other corporations or individuals;

Bonds, notes, etc.

Third, All *bona fide* indebtedness owing by such person, giving an itemized statement in detail, and to whom owing and the residence of such creditors and the amount due each, provided he desires to have the same deducted from his credits.

Indebtedness.

PERSONAL PROPERTY—CHAATELS.

First, All shares in banks organized in this State under any law of this State or of the United States, and their value after deducting the value of the real estate taxed to the banks;

Bank shares.

Second, All shares in foreign corporations, except national banks, and their value;

Other shares.

Third, All shares in other corporations organized under the

Idem.

laws of this State when the property of such corporation is not exempt, or is not taxable to itself, and their value;

Moneys.	<i>Fourth</i> , All moneys;
Jewelry, etc.	<i>Fifth</i> , The value of all gold and silver plate, watches, diamonds and jewelry;
Furniture, etc.	<i>Sixth</i> , The value of all household furniture and musical instruments over and above exemptions;
Patent rights.	<i>Seventh</i> , All patent rights, and their value;
Animals.	<i>Eighth</i> , The number and kinds of domestic animals, and their value;
Vehicles.	<i>Ninth</i> , All wagons, carriages and sleighs, and their value;
Implements.	<i>Tenth</i> , All mechanical and agricultural implements, and tools, and their value;
Machinery.	<i>Eleventh</i> , All machinery not affixed to real property, and its value;
Ships.	<i>Twelfth</i> , All ships, boats and vessels, whether at home or abroad, and their value;
Stock.	<i>Thirteenth</i> , All merchandise and stock in trade, and its value;
Logs.	<i>Fourteenth</i> , All logs, timber, lumber, posts, and ties and their value, where the same is situate on the second Monday of April, as near as may be, and the distinctive marks thereon, if any, and place of destination in this State;
Other goods, etc.	<i>Fifteenth</i> , All other goods, chattels, and personal property not heretofore specifically mentioned, and their value, except property specifically exempt from taxation;
Exemptions.	<i>Sixteenth</i> , All goods and chattels which are exempt from taxation.

SEC. 14. In every case when any person shall neglect or refuse to make out and deliver a sworn statement of his property to the supervisor, as required by this act, or if the supervisor shall be satisfied that any statement so made is incorrect, said supervisor is hereby authorized and required to examine on oath any other person or persons whom he may have good reason to believe and does believe has knowledge of the amount or value of any property owned or held by such person so neglecting or refusing; and such supervisor is hereby authorized to set down and assess to such person such amount of personal property as he may deem just.

SEC. 15. On or before the third Monday of May in each year, the supervisor shall make and complete an assessment roll, upon which he shall set down the name of every person liable to be taxed for personal property in his township, and also a full description of all the real property liable to be taxed in such township. If the name of the owner or occupant of any such tract or parcel of real property is known, he shall enter the name of such owner or occupant opposite to the description thereof; in all other cases the real property described upon such roll shall be assessed as owner unknown. Each description shall show the number of acres contained in it, as determined by the supervisor. It shall not be necessary for the assessment roll to specify the quantity of land comprised in any town, city or village lot. The supervisor shall estimate, according to his best information and judgment, the true cash value of every parcel of real property,

Assessment roll, time and manner of making.

Property to be assessed at cash value.

and set the same down opposite such parcel. He shall also estimate the true cash value of all the personal property of each person, and set the same down opposite the name of such person. In determining the property to be assessed and in estimating such values he shall not be bound to follow the statements of any person, but shall exercise his best judgment. Property assessed to one other than the owner shall be assessed separate from his property and shall show in what capacity it is assessed to him. Two or more persons not being copartners, owning personal property in common, may each be assessed severally for his portion thereof. Undivided interests in lands owned by tenants in common, or joint tenants not being copartners, may be assessed to the owners thereof. Undivided interests, etc.

SEC. 16. The description of real property may be as follows, Description of real property.
viz. :

First, If the land to be assessed be an entire section, it may be described by the number of the section, township and range; Entire sections.

Second, If the tract be the subdivision of a section authorized by the United States for the sale of public lands, it may be described by the designation of such subdivision, with the number of the section, township and range; Subdivision of section.

Third, If the tract be less or other than such subdivision, it may be described by designation of the lot or other lands by which it is bounded, or in some way by which it may be known; If less than subdivision.

Fourth, In cases of land platted or laid out as a town, city, or village, or as an addition to a town, city or village, the same may be described by reference to such plat and by the number of the lots and blocks thereof, whether such plat be recorded or not; Town lots, etc.

Fifth, When two or more parcels of land are used or occupied together, they may be assessed by one valuation; Joint parcels.

Sixth, Lands may be designated by any description by which they may be known; Other designation.

Seventh, It shall be sufficient to describe the real property assessed upon any roll and in all other proceedings under this act, in the manner heretofore in use by initials, letters, abbreviations, and figures. Use of initials, etc.

SEC. 17. The words "cash value," whenever used in this act, shall be held to mean the usual selling price at the place where the property to which the term is applied shall be at the time of assessment, being the price which could be obtained therefor at private sale, and not at forced or auction sale. The words "cash value" defined.

SEC. 18. At the annual township meeting, held [on] the first Monday of April in the year eighteen hundred and ninety, there shall be elected by ballot, on the regular township ticket, two suitable electors of the township to serve as members of the board of review, one of whom shall be elected for one year, and one for two years, and annually thereafter one member shall be elected for two years, who shall take the constitutional oath of office as other township officers. The supervisor and the two electors so elected shall constitute the board of review for such township. Board of review, election of. ✓
The township board may temporarily fill any vacancy which shall occur in the membership of said board of review. A majority of How constituted. Vacancy. Quorum.

Meeting of.	said board of review shall constitute a quorum for the transaction of business, but a less number may adjourn from day to day, and a majority vote of those present shall decide all questions. On the Tuesday next following the third Monday of May, the board of review of each township shall meet at the office of the supervisor; at which time the supervisor shall submit to said board the assessment roll for the current year, as prepared by him, and the said board shall proceed to examine and review the same, and during that day, and the following day if necessary, said board, of its own motion, or on sufficient cause being shown by any person, shall add to said roll the names of persons, the value of personal property, and the description and value of real property liable to assessment in said township, omitted from such assessment roll; they shall correct all errors in the names of persons, in the descriptions of property upon such roll, and in the assessment and valuation of property thereon, and they shall cause to be done whatever else may be necessary to make said roll comply with the provisions of this act. The board shall pass upon each valuation, and enter the valuation as fixed by it in a separate column. The roll as prepared by the supervisor shall stand as approved and adopted as the act of the board of review, except as changed by a vote as herein provided. If for any cause a quorum does not assemble during the days above mentioned, the roll as prepared by the supervisor shall stand as if approved by the board of review.
Review of roll and duty of board.	
Approval of roll, etc.	
If no quorum attends	
Meetings to correct erroneous assessments.	SEC. 19. Said board of review shall also meet at the office of the supervisor on the fourth Monday in May, at nine o'clock in the forenoon, and continue in session during the day and the day following. Such board shall continue its sessions at least six hours each day, and at the request of any person whose property is assessed thereon, or of his agent, and on sufficient cause being shown, shall correct the assessment as to such property in such manner as in their judgment will make the valuation thereof relatively just and equal. To that end said board may examine on oath the person making such application, or any other person, touching the matter. Any member of said board may administer such oath. After said board shall complete the review of said roll, a majority of said board shall endorse thereon and sign a statement to the effect that the same is the assessment roll for said township for the year in which it has been prepared and approved by the board of review. Said statement may be in the following form, viz.:
Length of sessions.	
May examine on oath, etc.	
Statement of approval.	
Form of.	"Assessment roll of the township of....., for the year 18.., as approved by the board of review. "Dated....., ... "Board of Review."
Omission of not to affect validity.	Upon the completion of said roll, and its endorsement in manner aforesaid, the same shall be conclusively presumed by all courts and tribunals to be valid, and shall not be set aside except for causes hereinafter mentioned. The omission of such endorsement shall not affect the validity of such roll.

SEC. 20. If from any cause a quorum shall not be present at any meeting of the board of review, it shall be the duty of the supervisor, or, in his absence, any other member of the board present, to notify each absent member to attend at once, and it shall be the duty of the member so notified to attend without delay. If from any cause the second meeting of such board of review herein provided for is not held at the time fixed therefor, then and in that case it shall meet on the next Monday thereafter, and proceed in the same manner and with like powers as if such meeting had been held as hereinbefore provided.

When quorum not present.

If second meeting not held, to meet on the next Monday.

SEC. 21. The board of supervisors in each county shall, at their session in October in each year, examine the assessment rolls of the several townships, and ascertain whether the relative valuation of the real property in the respective townships has been equally and uniformly estimated. If, on such examination, they shall deem such valuation to be relatively unequal, they shall equalize the same by adding to or deducting from the valuation of the taxable property in any township or townships such an amount as in their judgment will produce relatively an equal and uniform valuation of the real property in the county, and the amount added to or deducted from the valuation in any township shall be entered upon the records. They shall also cause to be entered upon their records the aggregate valuation of the taxable real and personal property of each township in their county, as determined by them. The board shall also make such alterations in the description of any lands upon such rolls as may be necessary to render such description conformable to the requirements of this act. After such rolls shall have been equalized, each shall be delivered to the supervisor of the proper township, who shall file and keep the same in his office.

Examination of rolls by board of supervisors.

Equalization of rolls.

To record aggregate valuation.

Alterations.

Disposition of rolls.

SEC. 22. On or before the first day of September in each year, the Auditor General shall make and record in his office a statement showing the taxes to be raised for State purposes that year, referring to the law on which each tax is based, and the total amount of such taxes. This State tax he shall apportion among the several counties in proportion to the valuation of the taxable property therein, as determined by the last preceding State board of equalization, and shall, before the October session of the board of supervisors in each year, make out and transmit to the clerk of each county a statement of the amount of such taxes so apportioned to such county. He shall also, in a separate item of said statement, set forth the amount of indebtedness of such county to the State, as shall be shown by the statement of the account between the county and the State, made by the Auditor General on the first day of July next previous to such apportionment, which amount shall be apportioned by the board of supervisors of the proper county at the same time as the State taxes contained in said apportionment of the Auditor General, and shall be levied in the same manner as and become a portion of the county taxes for the same year, unless the said indebtedness shall have been paid to the State before October first: *Provided*, That such portion thereof, if any, as should be assessed to a particular

Auditor General to record State taxes.

To apportion to counties.

To transmit statement of same to county clerks. Indebtedness of county to State.

To be apportioned with tax.

Proviso.

township shall be apportioned to and assessed upon such township.

Town clerk to certify to supervisors all moneys to be raised, etc.

Supervisor to deliver to county clerk.

Board of supervisors to apportion all taxes, etc., to townships.

To examine certificates, etc.

Objections.

Omissions or defects.

May be referred to prosecuting attorney.

Direct taxes to be spread on roll.

Record of proceedings.

Duty of county clerk.

Proviso.

SEC. 23. It shall be the duty of the township clerk of each township, on or before the first day of October of each year, to make and deliver to the supervisor of his township, a certified copy of all statements and certificates on file, and of all records of any vote or resolution in his office authorizing or directing moneys to be raised therein by taxation for township, school, highway, drain, and all other purposes, together with a statement of the aggregate amount thereof, and such certified copies shall by such supervisor be delivered to the clerk of the board of supervisors of the county, on or before the second Monday of said month, and the same shall, by said county clerk, be laid before the board at its annual meeting, and filed in his office.

SEC. 24. The board of supervisors, at their annual session in October in each year, shall ascertain and determine the amount of money to be raised for county purposes, and shall apportion such amount and also the amount of the State tax and indebtedness of the county to the State among the several townships in the county in proportion to the valuation of the taxable property therein, real and personal, as determined by them for that year, which determination and apportionment shall be entered at large on their records. They shall also examine all certificates, statements, papers, and records submitted to them showing the moneys to be raised in the several townships for school, highway, drain, township, and all other purposes. They shall hear and duly consider all objections made to raising any such moneys by any tax payer to be affected thereby. If it shall appear to the board that any certificate, statement, paper or record is not properly certified, or that the same is in any wise defective, or that any proceeding to authorize the raising of any such moneys has not been had or is in any wise imperfect, and such certificate, statement, paper, record or proceeding can then be corrected, supplied or had, such board may authorize and require such defects or omissions to be corrected, supplied or had. They may refer any or all such certificates, statements, papers, records and proceedings to the prosecuting attorney, whose duty it shall be to carefully examine the same and, without delay, report in writing his opinion to the board. They shall direct that such of the several amounts of money proposed to be raised for township, school and highway, drain, and all other purposes as shall be authorized by law, be spread upon the assessment roll of the proper township. Such action and direction shall be entered in full upon the records of the proceedings of the board.

SEC. 25. The clerk of the board of supervisors shall, immediately after the said apportionment, make out two certificates showing the amounts apportioned to each township for State, county, and the various township purposes, each tax being kept distinct, one of which he shall deliver to the county treasurer, and the other to the supervisor of the proper township: *Provided*, That if the county clerk fail to make such certificate, the super-

visor shall take official notice of all the certificates, statements, papers and records in the office of the county clerk relating to the levy of taxes in his township, and of the action of the board of supervisors thereon.

SEC. 26. Each supervisor shall proceed to assess the taxes apportioned to his township according and in proportion to the valuations entered by the board of review in the assessment roll of the township of the year: *Provided*, That if the board of review make no such entry then on the valuation therein as entered by the supervisor. For the purpose of avoiding fractions in excess in such taxes, the supervisor may add to the several amounts to be raised not more than one per cent. Said excess shall belong to the contingent fund of the township. Such taxes shall be entered in separate columns as follows: All school taxes and the one mill tax in one column, highway taxes in another, township taxes in another, county taxes in another, and the State taxes in another column, and if other taxes are at any time required to be raised they shall be placed in separate columns. The total of such taxes assessed against any one valuation or parcel of property shall be footed up and carried out in the last column upon the right hand side of such roll. The taxes thus assessed shall become at once a debt to the township from the persons to whom they are assessed, and the amounts assessed on any real property shall, on the first day of December, become a lien on such real property, and the lien for such amounts, and for all interest and charges thereon, shall continue until payment thereof. And all personal taxes shall also be a lien on all personal property of such persons so assessed from and after the first day of December in each year and shall take precedence of any sale, assignment of or chattel mortgage, levy or lien on such personal property executed or made after said first day of December, except where such property is sold in the regular course of trade. Before the supervisor shall deliver such roll to the township treasurer, he shall carefully foot up the several taxes therein levied, and shall give to the township clerk of his township a statement thereof, and such township clerk shall immediately charge the amount of such taxes to the township treasurer.

Assessment by supervisor.

Proviso.

Fractions, how avoided.

Excess.
Entry of taxes on roll.

To be a debt to township, and lien on property, when.

Lien to have precedence, etc.

Statement to town clerk.

To be charged to treasurer.

OF THE TAX ROLL.

SEC. 27. The supervisor shall thereupon prepare a copy of the said assessment roll, with the taxes assessed as hereinbefore provided, and annex thereto a warrant signed by him, commanding the township treasurer to collect the several sums mentioned in the last column of such roll, and to retain in his hands the amount receivable by law into the township treasury for the purposes therein specified, and to account for and pay over to the county treasurer the amounts therein specified for State and county purposes, on or before the first day of February then next; and the said warrant shall authorize the treasurer, in case any person named in the assessment roll shall neglect or refuse to pay

Copy of roll and warrant to treasurer, etc.

To authorize distress and sale of property, etc.

his tax, to levy the same by distress and sale of the goods and chattels of such persons. The supervisor may make a new roll and warrant in case of the loss of the one given the township treasurer. The copy of the roll, with the warrant annexed, shall be known as the tax roll.

Notice to treasurer of State and county taxes.

SEC. 28. The supervisor of each township, on or before the fifteenth day of November in each year, shall notify the township treasurer of the amount of State and county tax as apportioned to his township, and such treasurer, on or before the twenty-fifth day of November, shall give to the county treasurer a bond running to the county, in double the amount of State and county taxes, with sufficient sureties, to be approved by the supervisor of the township and the county treasurer, conditioned that he will pay over to the county treasurer as required by law, all State and county taxes which he shall collect during his term of office, and duly and faithfully perform all the other duties of his office.

Filing of, and receipt for bond.

SEC. 29. The county treasurer shall file and safely keep such bond in his office, and shall give to the township treasurer a receipt stating that he has received the bond required by the preceding section, which receipt the township treasurer shall deliver to the supervisor on or before the first day of December.

Delivery of roll to treasurer.

SEC. 30. The supervisor, after the delivery of such receipt, and on or before the first day of December, shall deliver to the township treasurer the tax roll of his township.

Collection of taxes.

SEC. 31. On receiving such tax roll, the township treasurer shall proceed to collect such taxes. He shall remain in his office at some convenient place in his township, on every Friday in December thereafter, from nine o'clock A. M. to five o'clock P. M., to receive taxes: *Provided, however,* That he shall receive taxes upon any week day when they may be offered, and on all sums voluntarily paid before the first day of January of the succeeding year, he shall add one per cent for collection fees, and upon all taxes paid on or after said first day of January he shall add four per cent. In case he is justly apprehensive of the loss of any personal tax, he may take steps to enforce its collection at any time, and if compelled to seize property or bring suit in December, may add four per cent for collection fees.

Proviso.

Personal tax, when collection may be enforced.

SEC. 32. All taxes shall be collected before the first day of February, unless the time for collection is extended. The township board of any township or the common council of any city may extend such time, not exceeding one month. No extension shall be granted by the board of supervisors. When such an extension is made, the township clerk shall immediately notify the county treasurer thereof. In case of an extension, the warrant annexed to the tax roll shall continue in force during the time extended, and the bonds of the township treasurer shall not be invalidated by any such extension. But no collector or township or city treasurer shall receive the benefit of such extension until he shall have paid over to the county treasurer all State and county taxes collected.

When taxes to be collected.

Extension of time.

Clerk to give notice of extension.

Warrant and bond to continue in force.

SEC. 33. For the purpose of collecting the taxes remaining

unpaid on the first day of January, the township treasurer shall, during that month, call upon each person liable to pay such taxes personally, if a resident of such township, or at his usual place of residence or business therein, and demand payment of the taxes charged against him. If such person is not a resident of the township, but resides within the county, and his residence is known to the treasurer, he shall make such demand either personally or by mail. If demand is sent by mail, the amount of the tax shall be stated and the place and time where and when it may be paid. He shall give a receipt for every tax paid, and shall enter the fact of payment and the date thereof upon his tax roll. In case of any tax assessed upon the shares of the capital stock of any bank he shall call upon the cashier of such bank and demand payment thereof, and thereupon it shall be the duty of such cashier to pay the same and charge the amount so paid against the shares of stock so taxed.

Collection of
tax after
January first.

SEC. 34. If any person shall neglect or refuse to pay any tax assessed to him, the township treasurer shall collect the same by seizing the personal property of such person to an amount sufficient to pay such tax, fees and charges for subsequent sale, wherever the same may be found in the county, from which seizure no property shall be exempt. He may sell the property seized to an amount sufficient to pay the tax and all charges, in the township where seized, or in the township of which he is treasurer, at public auction, on giving public notice of the same at least five days previous to the sale, by posting written or printed notices in three public places in the township where the sale is to be made, which sale may be adjourned from time to time if he shall deem the same necessary. If it becomes necessary to sell personal property which brings more than the amount of taxes and charges, the balance shall be returned to the person from whose possession the property was taken, except as hereinafter provided. If the property so distrained cannot be sold for want of bidders, the treasurer shall return a statement of the fact, and such tax shall be returned as unpaid. The township treasurer, if otherwise unable to collect a tax on personal property, may sue the person to whom it is assessed, in the name of the township, and garnishee any debtor or debtors of such person. The tax roll shall be *prima facie* evidence of the debt sought to be recovered.

Collection by
seizure and sale
of personal
property.

Notice of sale.

In case of
surplus.

May sue and
garnishee.

Evidence of
debt.

SEC. 35. In case of a distress and sale of goods and chattels for the payment of any tax, the township treasurer or other collecting officer may also collect on such sale one dollar and twenty-five cents over and above the tax, as his fees for making such sale, which fees and percentage hereinbefore provided shall be in full for his services in collecting such taxes; and in case payment of such tax shall be made after the distress and before the sale, it shall be lawful for such treasurer or collecting officer to require the payment of one dollar and twenty-five cents as his fee for making such distress, and to enforce payment of the same, if need be, by making sale notwithstanding the tax shall have been paid.

Fees for selling
property.

In case of pay-
ment before
sale.

In case of removal of personal property before taxes are paid.

Statement thereof.

To be witnessed, etc.

To be authority to other treasurer.

To collect said tax, etc.

Double fees, etc.

To transmit tax, fees, etc.

To mark tax paid, etc.

Execution on judgments for taxes, etc.

Surplus, disposition of, when claimed by several

And whenever any personal property having been assessed to any person in any township or ward in this State, shall be removed therefrom before the taxes assessed thereon shall be collected, and there being no other personal property sufficient in said township or ward whereon the township treasurer or other collecting officer can levy and collect said taxes, he shall have full power, and it shall be his duty, to make a statement, duly certified by him to be correct and true, showing that personal property has been assessed to such person, naming him, the valuation thereof, the various taxes thereon, and the total thereof, as appears from the roll in the hands of such treasurer, and that such property has been removed from such township or ward since the assessment thereof, and that the tax has not been paid; which statement shall be witnessed and acknowledged in the same manner as deeds of real estate are acknowledged, and shall be received in all courts and other places as evidence of the facts therein contained, without proof of its execution, and shall be *prima facie* evidence of the validity of the tax therein named against the person therein named, and shall be full and ample authority to the treasurer or other tax collector to whom it shall be sent to levy and collect the same in the same manner as other personal taxes are collected by him when spread upon his own roll. Such statement may be sent to the township or city treasurer, or other collecting officer of any township or city in this State where the person against whom such assessment was made may have property, and the township treasurer, or other collecting officer to whom such statement shall have been transmitted, shall, upon receipt of the same, proceed to collect said taxes out of any property belonging to the owner of such property, so taxed as aforesaid, within his jurisdiction liable to be seized for taxes, together with double collection fees therefor, and the further sum of twenty-five cents to defray the expense to transmitting the taxes so collected as hereinafter provided, and shall give [his] receipt therefor. The said township treasurer, or other collecting officer, shall thereupon transmit the taxes, and one-half of the collection fees as aforesaid collected to the township treasurer, or other collecting officer, from whom he received such statement, and the latter shall, upon the receipt of said taxes and collection fees, mark the said taxes as paid upon his assessment roll, and the date of the receipt of the same, retaining the collection fees so received as aforesaid, as his fees in the matter of the collection of said taxes.

SEC. 36. Executions issued upon judgments rendered for any tax may be levied upon any property, without exemption, the same as though seized for sale under warrants issued for the collection of taxes by township supervisors, and collected in the same manner, in all other respects, as provided by law for the collection of judgments.

SEC. 37. Whenever a surplus arising from the sale of any property distrained for taxes shall be claimed by any other than the person for whose tax such property was sold, and such claim shall be contested, either of the contestants may prosecute an

action against the other, as for money had and received, and in such action the rights of the parties to such surplus shall be determined. For the purpose of such action, the defendant shall be deemed to be in possession of the surplus in the hands of the township treasurer, and upon the presentation to said treasurer of a certified copy of the final judgment rendered in such action, he shall pay over the same to the party recovering such judgment; and no township treasurer shall be liable to any claimant of such surplus, the right to which is contested as provided in this act, until he shall have refused to pay over such surplus, upon the production of a certified copy of a judgment as aforesaid. In any action brought pursuant to this section no other case shall be joined nor shall any set-off be allowed; and if an execution issue on a judgment so rendered, it shall direct the costs only of such action to be levied by virtue thereof.

SEC. 38. In case any township treasurer shall neglect to give either of the bonds required, or shall die, or resign, or remove out of the township, or become unable to discharge the duties of his office, the township board shall forthwith appoint a new treasurer, who, on giving the required bonds, shall execute the duties of the office for the remainder of the year. The township clerk shall immediately notify the county treasurer of such appointment.

When new treasurer to be appointed, etc.

Clerk to give notice of.

SEC. 39. In case the township treasurer shall neglect or refuse to file his bond with the county treasurer, in the manner and within the time prescribed by law, and the township board shall fail to appoint a treasurer who shall give such bond and deliver a receipt for the same to the supervisor by the tenth day of December, the supervisor shall deliver the tax roll with a warrant directed to the sheriff of the county, who shall, before he receives said tax roll, execute and deliver like bonds required of the township treasurer, and make like collections and returns, and shall be entitled to the same compensation allowed to the township treasurers, on all taxes so handed over to him for collection; and, for the purpose of collecting the same, shall be vested with all the powers conferred upon the township treasurer, and suit may be brought on such sheriff's bond, under the same circumstances as on those of a township treasurer.

When sheriff to collect taxes.

Bonds of, etc.

SEC. 40. In case the township treasurer shall not collect the full amount of taxes required by his warrant to be paid into the township treasury, such portion thereof as he shall collect shall be retained by him, and paid out for the following purposes: The amount of school taxes collected to be paid on the order of the school district officers, the amount collected for general township purposes to be paid on the order of the township board, the amount collected for highway purposes to be paid on the order of the commissioner of highways, and the amount collected for any special fund to be paid on the order of the proper officer, but in no case shall the amounts collected for any one fund be paid on the orders drawn on any other fund.

Disposition of tax when full amount not collected.

Order of funds.

SEC. 41. Any person may pay the taxes or any one of the several taxes, on any parcel of land. He may pay any tax whether levied

Who may pay any or all taxes.

Payment under protest, etc.	on personal or real property under protest to the township treasurer, specifying at the time, in writing signed by him, the grounds of such protest and such treasurer shall minute the fact of such protest on the tax roll and in the receipt given. The person paying under such protest may, within thirty days, and not afterwards, sue the township for the amount paid, and recover, if the tax is shown to be illegal for the reasons specified in such protest.
Payment on undivided share, etc.	Any person owning an undivided share, or other part or parcel of real property assessed in one description, may pay on the part thus owned by paying an amount having the same relation to the whole tax as the part on which payment is made has to the whole parcel. The person making such payment shall accurately describe the part or share on which he makes payment, and the receipt given, and the record of the receiving officer shall show such description, and by whom paid; and in case of the sale of the remaining part or share for non-payment of taxes, he may purchase the same in like manner as any disinterested person could.
Description of part of share.	Any person having a lien on property may pay the taxes thereon, and the same may be added to his lien and recovered with the rate of interest borne by the lien. A tenant of real estate may pay the taxes thereon and deduct the same from his rent, unless there be an agreement to the contrary. Such payment may be paid to the township treasurer while the tax roll is in his hands, or afterwards to the county treasurer or the State Treasurer. The receipt given shall be evidence of such payment.
In case of lien.	SEC. 42. Within one week after the time specified in his warrant, the township treasurer shall pay to the county treasurer all State and county taxes collected: <i>Provided</i> , That the township treasurer of the township of South Manitou, in the county of Manitou, shall pay to the county treasurer such State and county taxes at any time on or before the first day of June next after the time specified in his warrant.
Tenant may pay taxes, etc.	
When state and county taxes to be paid.	
Proviso for South Manitou.	

OF THE RETURN OF DELINQUENT TAXES.

Delinquent taxes on real property, statement of, etc.	SEC. 43. If the township treasurer shall be unable to collect any of the taxes on his roll assessed on real property, he shall make a statement of the same, with a full and perfect description of such property with the taxes upon each parcel thereof, which statement shall be verified by the affidavit of such treasurer, that such taxes remain unpaid, and that he has not, upon diligent inquiry, been able to discover any goods or chattels liable to pay such sums whereupon he could levy the same. The township treasurer shall also make a statement showing the taxes upon personal property remaining unpaid, and the names of the persons against whom assessed, and the amount against each; and in such statement shall set forth the amount of all moneys collected by him on account of taxes, which statement shall be verified by the affidavit of such treasurer, in which he shall state in substance that the sums mentioned in such statement as uncollected remain unpaid; that he has not, upon diligent inquiry, been able to discover any
On personal property.	

goods or chattels belonging to the person liable to pay such sums whereupon he could levy the same; and that the amount of moneys collected by him upon such tax roll is truly stated therein.

SEC. 44. The county treasurer shall immediately compare such statements with the said tax roll, and if he finds the same to be correct, he shall add to each of them a certificate showing that he has examined and compared such statements with the said tax roll and found them correct and shall file such statements in his office: *Provided*, That the county treasurer shall, at the time of making such comparison, and at no other time, reject any tax upon any lands which shall have been twice assessed, or upon any parcel which shall be so erroneously or defectively described that it cannot be ascertained.

Certificate of county treasurer.

Provido.

SEC. 45. The county treasurer shall give to the township treasurer a receipt, stating the amount of moneys paid to him by such township treasurer, for which the township shall receive a credit on the books of the county treasurer, and he shall also give such township treasurer a statement of all taxes rejected by him, the amount of delinquent taxes returned, and the amount of any unpaid taxes on personal property, which receipt and statement shall be the vouchers of such township treasurer for the amounts specified therein.

Receipt and statement to county treasurer, etc.

SEC. 46. The county treasurer shall thereupon endorse the fact of such settlement on the bond of the township treasurer, which endorsement shall operate as a discharge of the treasurer and his sureties from the obligation thereof, unless the return of such treasurer is incorrect, in which case such bond shall continue in force, and such treasurer and his sureties shall be liable thereon for all damages occasioned by such incorrect returns; and the township treasurer shall immediately deposit his tax roll with the county treasurer, who shall file and preserve the same in his office, and which said roll or a duly certified copy thereof, shall, for all purposes, in all courts, suits and proceedings, be taken, held, and used as evidence, in the same manner and with like effect as the original roll. The county treasurer shall give the township treasurer a statement of all the personal taxes which remain uncollected, taken from the return of the latter, with a warrant authorizing him or his successor to collect them according to law, and thereafter the township treasurer or his successor shall have the same power to collect such taxes as under his original warrant.

Settlement to be endorsed on bond, etc.

Roll to be deposited with county treasurer.

Statement of uncollected personal taxes, etc.

SEC. 47. When any county treasurer shall receive from a township treasurer a statement of unpaid taxes, together with a list of the lands on which the same are delinquent, verified according to law, such county treasurer shall enter the same at length on the books in his office, provided for that purpose, and he shall make a transcript of all the descriptions of land returned as delinquent for unpaid taxes, except such as may have been rejected by him, which transcript shall be compared by the county clerk with the statement of the township treasurer, and, if he finds it to be a

Unpaid taxes on lands to be recorded.

Transcript of descriptions.

true transcript thereof, he shall add to it a certificate that he has found it correct.

Said transcript
to be forwarded
to Auditor
General.

SEC. 48. Such transcript, so made, compared, and certified shall be forwarded by the county treasurer to the Auditor General, by the first day of March next after the return of such statement; but such transcript shall be receivable at any time during said month of March, and the Auditor General is hereby authorized, when in his judgment it may be deemed expedient, to extend the time in which said transcript shall be returned to him.

Provision for
South Manitou.

Provided, That such transcript of statement from the township of South Manitou, in the county of Manitou, shall be receivable at any time before the tenth day of June next following said month of March.

Unpaid taxes,
payment of.

SEC. 49. After the return of lands for unpaid taxes the county treasurer is authorized to receive the amounts due, and the board of supervisors in each county may authorize notice to be given to all delinquent tax payers so far as known.

Notice to
delinquents.

Receipts by
county
treasurer, etc.

SEC. 50. The county treasurer shall issue duplicate receipts for all taxes received by him, which shall be countersigned by the county clerk, and one of said duplicates shall be left with such clerk, who shall make an entry of the amount for which every such receipt was given, with the name of the person paying such tax, in a book to be provided for that purpose, and shall, on the first Monday of each month, forward all such receipts to the Auditor General in such manner as he may direct. The provisions of this section shall apply to the redemption certificate provided for in section sixty-four of this act.

OF THE SALE OF LANDS, AND CONVEYANCE AND REDEMPTION THEREOF.

Lands subject
to sale.

SEC. 51. Any lands, upon which taxes shall remain unpaid for more than one year from the first day of July next after their return to the Auditor General as delinquent therefor, shall be subject to sale in the manner hereinafter mentioned.

Petition of
Auditor General
to circuit court.

SEC. 52. As soon as practicable after the first day of July in each year, the Auditor General shall prepare and file in the office of the county clerk in each county in which lands are to be sold under the provisions of this act, a petition addressed to the circuit court for said county in chancery, stating therein by apt reference to lists or schedules annexed thereto a description of all lands in such county upon which taxes have remained unpaid for more than one year from the first day of July after their return to the Auditor General, and the total amount of such taxes, with interest computed thereon to the time fixed for the sale thereof and a collection fee of four per cent extended separately against each parcel of land, and he shall include with and add to such total amount against each parcel one dollar for the cost of advertising and other expenses of sale. Such petition shall pray a decree in favor of the State of Michigan against said land for the payment of the several amounts so specified therein,

Contents of.

Praying for
decree of sale.

and in default thereof that such lands be sold. It shall be signed by the Auditor General and need not be otherwise verified, and shall be deemed equivalent to a bill in chancery to enforce the lien for such taxes, interest and charges, averring their validity, that they have not been paid, and praying for a sale to pay such lien. Lands hereafter bid off in the name of the State and thus held shall not be included in such petition.

Lands bid off to State.

SEC. 53. The petition shall be in a substantial record book, with the lists of lands and taxes annexed following the same therein. Such record shall be ruled with appropriate columns, one containing a description of the lands, with columns for the total amount of taxes, interest and charges claimed due on each parcel of land opposite thereto; also with blank columns, one with heading, "Parts of descriptions paid before sale or withheld;" another, "By whom paid;" another, "Amount paid before sale;" another, "Amount decreed against lands;" another, "Special orders;" another, "Interest in each parcel sold;" another, "Name of purchaser;" another, "Address of purchaser;" another, "Number of certificate;" another, "Remarks." The Auditor General may add such other columns as he may find necessary. The word petition shall be construed to include the lists annexed thereto. Said record shall be called tax record. Parts of descriptions of lands upon which taxes are paid before sale, or which are withheld from sale, the amount paid on taxes before sale, the amount of taxes, interest and charges decreed against lands, special orders made by court relating to any parcel of land or any tax, the interest in each parcel of land sold, the name of each purchaser and his address, and the number of certificate of sale shall be entered in said record under their appropriate headings, opposite to the description of lands affected thereby. After the filing of said petition, the county clerk, acting as a register in chancery, shall issue a subpoena directed to each delinquent tax payer who is a resident of this State, to appear and answer said petition within twenty days after the return day of said subpoena, or in default thereof said petition will be taken as confessed by such delinquent tax payer. Said subpoena shall be made returnable not less than ten days nor more than thirty days from the issuance of the same, and may be served by any sheriff, under sheriff, deputy sheriff, constable, police officer or other officer who has power to serve legal papers, and shall be personally served upon such delinquent tax payer, if he can be found within this State, in the same manner as subpoenas in chancery are served, and return of service shall be filed in the county clerk's office and shall become a part of the proceedings in the matter of said petition. When personal service is had, further proceedings shall be taken therein, as far as consistent with the provisions of the act, in the same manner as in circuit courts in chancery. Whenever the delinquent tax payer is a resident of the county wherein the taxes are to be collected, service shall be made by one of the officers hereinbefore designated, whose return of service filed in the matter shall have the same force and effect as returns upon subpoenas in chancery have

Form of petition, etc.

What petition to include.

"Tax record," entries therein, etc.

Subpoena for each delinquent.

When returnable, service of, etc.

When personal service had, etc.

Fees of officers, etc.	when made by proper officers serving the same. The officer serving such subpoena shall be entitled to a fee of twenty-five cents for service of each subpoena and ten cents for a copy thereof served upon such delinquent tax payer and ten cents for each mile necessarily and actually traveled one way in making such service, and when made by an officer residing at the county seat where said matter is pending, the distance so traveled shall be reckoned from the county court house to the place of making such service :
Proviso.	<i>Provided</i> , That when two or more subpoenas are served at the same time or place upon different [delinquent] tax payers, only one travel fee shall be charged and paid. Where the delinquent tax payer is a resident of the State, but not of the county wherein the taxable property is located, it shall be the duty of the sheriff of the county wherein said taxable property is located to transmit said subpoena to an officer who can serve the same and who lives nearest to said delinquent tax payer, and said officer shall make due service upon such delinquent tax payer, and after making his return of service, which return of service shall have the same force and effect as if made by an officer residing in the county wherein such taxable property is located, he shall re-transmit said subpoena to said sheriff, who shall deliver the same to the county clerk, who shall file the same in the matter of said petition. The officer making such service shall receive the sum of twenty-five cents for making and certifying to the service of the same and the sum of ten cents for a copy of the subpoena left with such delinquent tax payer and ten cents for each mile actually and necessarily traveled one way in making such service, together with a farther sum of ten cents for re-transmitting said subpoena to the sheriff who transmitted said subpoena to him, and the sheriff transmitting any such subpoena shall receive the sum of ten cents for each subpoena so transmitted. If service of such subpoena cannot be made the return of the officer shall so state, together with the reason therefor. If any delinquent tax payer who has been personally served with subpoena shall not appear to defend against the said petition within the time in this section provided, the same shall be taken as confessed by him, and thereupon a decree may be entered against him unless said confession shall, upon application to the court, at a time before said decree is taken, be set aside. Such decree may be taken either in term time or at chambers. All fees and expenses incurred by virtue of this section shall be a charge against the real estate on account of which the same were incurred.
When delinquent resides in other county, etc.	
Fees of officers, etc.	
If service is not had, etc.	
When decree to be confessed, etc.	
Fees, etc., to be charge, etc.	
Publication of petition.	SEC. 54. The Auditor General shall cause a copy of said petition to be published at least once in each week for four successive weeks prior to the time fixed for the hearing thereof, in some newspaper to be selected by him: <i>Provided</i> , It shall be sufficient to print against each parcel the "Amount of taxes," "Interest," "Charges," "Total" due on each. He shall also publish therewith for a like time a notice, by him signed, stating therein in substance that the State of Michigan has filed such petition in the circuit court for such county in chancery, referring to such copy; that it claims a decree against each parcel of land therein described
Proviso.	
Notice, contents of, etc.	

for the amounts specified; that such petition will be brought on for a hearing and decree at the next term of such court, to be held at a time and place in such notice specified; that all persons interested in such lands against whom a decree shall not have been taken desiring to contest the lien claimed thereon for such taxes, or any part thereof, shall appear in said court and file with the clerk thereof their objection thereto on or before said day, and that in default thereof a decree will be taken as prayed for in such petition. In such notice he shall also state that on the first Monday of May next thereafter, the lands described in said petition, and for which an order of sale shall be made, will be sold for the taxes, interest and charges thereon, as determined by such decree, at some convenient place in said county, to be named in said notice. The publication of the notice aforesaid shall be equivalent to a personal service of notice on all persons not personally served who are interested in the lands specified in such petition, of the filing thereof, of all proceedings thereon and of the sale of the lands under the decree, and shall give the court jurisdiction to hear such petition, determine all questions arising thereon, and to decree a sale of such lands for the payment of all taxes, interest and charges thereon. The circuit court in chancery shall have jurisdiction to hear, try and determine the matters alleged in such petition, even though the amount involved therein be less than one hundred dollars.

To contain also notice of sale of lands, etc.

Publication equivalent to personal service, etc.

Jurisdiction in chancery.

SEC. 55. It shall be the duty of the prosecuting attorney to prosecute all such proceedings on the part of the State. If he shall refuse, neglect or be unable to do so, the court shall appoint some competent person to take charge of and prosecute the same, who shall be paid by the county. The board of supervisors may employ some competent person to prosecute such proceedings or assist therein. Proof of the publication of the notices herein required shall be filed before any final order is made.

Duty of prosecuting attorney. In case of refusal, etc.

SEC. 56. Any person against whom a decree has not been taken desiring to contest the validity of any tax shall file in writing his objections thereto with the clerk of the county, on or before the day fixed in said notice for the hearing of such petition, and shall not be allowed to make any objection not therein specified. If within the first five days after the day fixed in such notice for the hearing of such petition it shall be made to appear to the court that any person has been prevented from filing objections to any tax, without fault on his part, such further time may be granted for that purpose as may seem proper, not exceeding five days. The court shall give precedence to the hearing of such petition over all other business, shall examine, consider, and determine the matters therein stated and objections made in a summary manner without other pleadings, and make final decree thereon as the right of the case may be. The taxes specified in the petition shall be presumed to be legal and a decree be made therefor unless the contrary is proved. Evidence shall be taken in open court. All oral testimony shall, at the request of any person interested, be written down and filed. The court may make such orders from

Validity of tax, how contested, etc.

When further time given.

Precedence of petition, etc.

Legality of taxes presumed.

Evidence, etc.

time to time as may be necessary to facilitate the proceedings, and shall decide all questions as to the admissibility of evidence, and the decision so made shall be final, and not subject to review or appeal. If the lands of two or more persons have been assessed together, the court may, if practicable, separate the same and apportion to each parcel its just proportion of the taxes, interest, and charges. If any tax shall be found illegal, it shall be rejected. If a part of any tax shall be found illegal, such part shall be set aside, and the remaining tax shall be decreed valid. The total amount of taxes, interest and charges, as fixed by the court, shall be entered by the register of the court opposite each parcel of land in the column of said record under the heading, "Amount decreed against lands." If the court shall make any order setting aside the taxes on any parcel of land, or any part thereof, or any special order relating to any particular parcel of land, or taxes thereon, a brief entry of such order shall be made upon said record opposite such land or tax, which shall be signed by the judge of the court, either by his full name or initials, and such entry shall have the same effect as if made and entered as a part of the final decree. At least ten days prior to the time fixed for the sale of such lands, the court shall make a final decree in favor of the State of Michigan for such taxes, interest, and charges as shall be valid, and determine the total amount thereof chargeable against each parcel of land, and shall order and decree that such several parcels of land, or so much of each as may be necessary to satisfy the amount fixed by such decree, shall severally be sold as the law directs. Such decree shall be considered as a several decree in favor of the State of Michigan against each parcel of land for each tax included therein. The court may decree such costs against a person contesting any tax as may be equitable, if the tax, or any part thereof, which remains unpaid, be adjudged valid.

SEC. 57. Such final decree shall be entered in the chancery record for recording decrees of such court, have the usual caption for decrees, and shall be substantially in the following form: "In the matter of the petition of the State of Michigan for the sale of certain lands for taxes assessed thereon." "The said petition and the matters therein stated, and the objections filed to certain taxes therein claimed, if any such objections are filed, came on to be heard, and proof of the due publication of notice of hearing of such petitions having been made and filed, and after hearing all parties interested therein: It is ordered, adjudged, and decreed that the amount of taxes, interest, collection fee, and charges set down in the column headed 'Amount decreed against lands,' in the tax record of which such petition forms a part, are valid, and decree is made in favor of the State of Michigan therefor against each parcel of said land for the amount set down in said column opposite to such parcel. It is further ordered, adjudged, and decreed that said several parcels of land, or such interest therein as may be necessary to satisfy the amount herein decreed against the same, shall be severally

In case of joint assessment.

Of illegal taxes, etc

Decree, amount of, entry, etc.

Order, entry of, etc.

Final decree, time of, effect, etc.

Of costs, etc.

Entry of decree in chancery record, form of, etc.

Order of sale, etc.

sold as the law directs. It is further adjudged and decreed that the several special orders made by this court, and entered on such tax record, are made a part hereof, with the same effect as if entered herein." If costs are adjudged against any person contesting a tax, the decree therefor shall be in proper form and execution awarded. The decree shall be signed by the judge and countersigned by the clerk. How signed, etc.

SEC. 58. Immediately after the entry of such decree, the county clerk shall make a certified copy thereof, and annex the same to the tax record. He shall thereupon deliver such tax record to the county treasurer, in whose office the same shall remain except as needed in the office of the county clerk. Decree, copy of to be annexed to tax record, etc.

SEC. 59. If from any cause the hearing on said petition is not had on the day fixed in the notice therefor, the same shall stand continued from day to day during the term without the entry of Hearing may be continued, etc.

any order of continuance, until disposed of, and if it shall for any reason be found impracticable to hear and determine the objections to all of the taxes specified in such petition within the time herein fixed for that purpose, then and in that case the court shall, within the time herein named, make a final decree as to all In case hearing can not be had in all cases.

taxes to which no objections have been filed, and also those to which objections have been filed, which the court has then heard and passed upon. Such decrees shall be signed and recorded as hereinbefore provided. The court shall proceed with the consideration of the remaining taxes embraced in such petition, and objections thereto, and as soon as practicable dispose of the same by one or more decrees and in such form as the court may determine, which shall be entered in the chancery record of decrees of such court, and the same shall describe the lands and specify the total amount of taxes, interest, and charges on each parcel thereof. The county clerk shall immediately thereafter deliver to the county treasurer a certified copy of such decree, to be kept and used as hereinbefore provided. Such copy of decree shall be annexed to the tax record and shall thereby become a part thereof. If from any cause no decree shall be made on such petition as to the taxes therein named, or any part thereof, the Auditor General shall, as soon as practicable, file a new petition for decree and sale, and proceedings thereon shall be the same and a decree and sale made as herein provided. Decree, copy of to be annexed to tax record, etc.

SEC. 60. In case a decree is given in favor of the validity of any disputed tax, and the person contesting its validity desires to appeal to the supreme court, he shall be allowed to do so on paying the amount of the decree to the county treasurer, within ten days after the date of such decree, who shall retain the same until the decision of the supreme court, and pay the same to the party interested if such tax is held invalid; if held valid, then such money shall be credited to the proper fund. By such payment the land in question shall be discharged from the lien of the tax. In case the decision is against the validity of any tax, either the county treasurer or the Auditor General shall have a right to direct an appeal therefrom to the supreme court on behalf of the State, but Appeals, how taken, etc.

there shall be no sale for the tax held invalid, until such decision has been reversed or modified by the supreme court.

Proceedings in court.

Notice of appeal bonds, etc.

Duty of judge.

Effect of appeal, etc.

When sale to commence, etc.

How conducted, etc.

Place of, etc.

Payment of bid, etc.

When no bids are made, etc.

To be bid off for the State.

SEC. 61. The proceedings where the validity of any tax is in dispute shall, where no other provision is made herein, follow the ordinary chancery practice, and the court may allow amendments as in ordinary cases. Notice shall be given of all appeals to the supreme court and such appeal shall be claimed, entered and bond for costs given, within twenty days after the making and entering of the decree. When the appeal is taken in behalf of the State, no bond shall be required. The judge shall, at the request of either party and on due notice, settle in proper form a case containing so much of the record and proceedings as may be necessary to the due understanding thereof by the supreme court, and if appeal shall be taken such case shall be transmitted to such court. An appeal as to the tax on any parcel shall not delay or affect the proceedings for the sale of any land on which there has been no appeal.

SEC. 62. On the first Monday of May the county treasurer shall commence the sale of those lands mentioned in the decree upon which the amounts charged shall not have been paid, and shall continue the same from day to day, Sundays and other legal holidays excepted, until so much of each parcel shall be sold as shall be sufficient to pay such amounts. Each parcel described in the decree shall be separately exposed to sale, and the sale shall be made to the person offering to pay the amount charged against such parcel in the decree and accept a conveyance of the smallest undivided fee simple interest therein. No greater interest in any parcel shall be sold than is sufficient to pay the amount charged thereto. If no person will offer to pay the amount charged against any parcel of land and take a conveyance of less than the entire thereof, then the whole parcel shall be sold. The sale shall be at the county seat, and at such convenient place as may be selected by the county treasurer, and shall be subject to the taxes assessed subsequent to taxes included in the decree. The county treasurer may, in his discretion, require immediate payment of any person to whom any parcel of such land may be struck off, and in all cases where payment is not made in twenty-four hours, he shall declare the bid canceled and sell the land again; and any person to whom any parcel of land shall be so struck off, neglecting for twenty-four hours after the close of such sale to pay to the county treasurer the amount of such bid, shall forfeit to the State five times the amount of such bid, which amount may be recovered, in the name of the people of the State of Michigan, in an action of debt, in any court of competent jurisdiction. Any subsequent bid of such person made at the sale may be disregarded by the treasurer. If any parcel of land cannot be sold for taxes, interest and charges, such parcel shall be passed over, for the time being, and shall, on the succeeding day, or before the close of the sale, be re-offered; and if, on such second offer, or during such sale, the same cannot be sold for the amount aforesaid, the county treasurer shall bid off the same in the name of the State, for the use of the

State, county, and town in proportion to the taxes, interest and charges due each. The county treasurer shall enter in the proper columns of such tax record the interest in lands sold, the name and postoffice address of each purchaser opposite each parcel of land sold, and the word "State" opposite each parcel bid off in the name of the State. Certificates shall be given to each purchaser of the lands and interests bid off by him, stating that he will be entitled to deed after the period of redemption provided for in section sixty-four has expired, and that if sale is not confirmed the money will be returned. All lands bid off in the name of the State shall continue liable to be taxed in the same manner as if they were not the property of the State. If from any cause the lands or any parcel thereof advertised for sale by the Auditor General, shall not be sold as advertised, it shall be the duty of the Auditor General to cause sale to be made at such other time as he may fix for that purpose, of which notice shall be published at least four weeks prior to such day, and such notice shall contain a description of the lands and the amount claimed thereon. The sale and all proceedings thereon shall be the same as if made on the day first fixed therefor: *Provided*, That if any parcel sold under the provisions of this section shall also be offered at the same sale as State tax lands, the purchaser must also, at the same time, become the purchaser from the State tax land list; all sales made in contravention of this requirement shall be void.

Entries by
treasurer, etc.

Certificates of
sale, etc.

Lands bid off to-
State subject to-
taxes.

When sale is
not had, etc.

Provided.

What sales void.

SEC. 63. The several county treasurers shall receive on such sale such funds only as shall, at the time, be receivable at the State treasury, and all moneys received at any tax sales that belong to the State shall be paid into the State treasury on or before the fifteenth day of June next after the time of such sales, and the expenses of advertising and sale shall be paid therefrom on the Auditor General's warrant, and the remainder shall be placed to the credit of the general fund as received.

Funds receiv-
able and dispo-
sition of, etc.

SEC. 64. The owner or occupant of any land sold for non-payment of taxes, or any person having any interest therein or in any part thereof, may, at any time before the first day of May next succeeding the sale, redeem the same or any parcel of said land or any interest therein by paying to the State Treasurer, on the certificate of the Auditor General, or to the county treasurer, for the use of the purchaser, his heirs or assigns, the amount for which said land was sold, the interest on the amount of purchase money at the rate of one per cent per month, or fraction thereof, from the date of sale as above provided, and all other taxes and charges thereon imposed subsequent to such sale and paid by such purchaser or his assigns and an office charge of twenty-five cents on such description, but whenever any land sold for taxes shall be redeemed within six months after the sale thereof, interest shall be paid for six months. Any person having any interest in or lien on any land may at any time after such land is bid in to the State or sold for non-payment of taxes, and before the time for redemption expires, pay to the State Treasurer, on the certificate of the Auditor General, or to the county treasurer, the amount

Redemption of
lands sold for
taxes, etc.

By person
having interest
in land sold.

Redeemed certificates, how paid, etc.

Certificates of redemption, disposition of, etc.

Report of sale, filing of, etc.

Objections, filing of, etc.

Proviso.

Further proviso.

Idem.

In case sale is set aside.

Report of sale to Auditor General, etc.

When deed to issue, etc.

of such taxes, together with the accrued costs, charges, and interest thereon, and thereupon he shall be entitled to a redemption certificate from the Auditor General or county treasurer, as the case may be, and such redemption certificate shall be a lien on such lands. Holders of redeemed tax sale certificates shall be entitled to have the redemption money, as above provided, paid to them on surrender of the certificates of purchase to the Auditor General.

SEC. 65. Upon the payment of the redemption money and interest to the county treasurer, as aforesaid, he shall issue duplicate certificates of redemption in the usual form, both of which certificates shall be countersigned by the county clerk, who shall make an entry of the number of each certificate, the amount for which it was given, and the name of the person paying the same; one of which certificates shall be delivered to the person making the payment, and the other shall be transmitted by the county clerk to the Auditor General, on the first Monday in each month, in the same manner as is now required for the transmission of duplicate receipts.

SEC. 66. As soon as possible after the conclusion of any sale, and within twenty days after the day named in the notice for the commencement thereof, the county treasurer shall make and file with the clerk of the court a report of such sale, therein referring to such tax record for the particulars thereof. All sales shall stand confirmed, subject to the right of redemption provided for in section sixty-four, unless objections thereto are filed within eight days after the time limited for filing such report without the entry of any order of further notice. The practice with reference to setting aside such sale shall be the same, so far as applicable, as in a sale in equity on the foreclosure of mortgages: *Provided*, No sale shall be set aside for inadequacy of price, except upon payment of amount bid upon such sale with [interests] interest and costs: *And provided further*, That no sale shall be set aside after confirmation, except in cases where the taxes were paid, or the property was exempt from taxation. In such cases the owner of such lands may move the court at any time within one year after he shall have notice of such sale, to set the same aside, and the court may so order upon such terms as may be just: *Provided also*, That no sale shall be set aside after the purchaser, his heirs or assigns, has been in actual possession of the lands for five years. If a sale is set aside, the county treasurer shall refund to the purchaser the amount of his bid, with interest at seven per cent, together with the taxes which have been paid by him since said sale, and interest thereon at seven per cent from date of payment.

SEC. 67. As soon as sales are confirmed, the county treasurer shall make full reports of the same to the Auditor General, giving a description of the property sold, the amounts for which the same was sold, and the names of the purchasers, and thereupon the Auditor General shall, after the period of redemption provided in section sixty-four has expired, execute deeds to the

purchasers in such form as shall be determined by him. No subscribing [witnesses] witness or certificate of acknowledgment shall be necessary to any such deed, and it shall be entitled to record in the office of the register of deeds of the proper county, in the same manner and with like effect as other deeds duly witnessed, acknowledged and certified. Such deeds shall convey an absolute title to the land sold, and be conclusive evidence of title in fee in the grantee, subject, however, to all taxes assessed and levied on such lands subsequent to the taxes for which the same was bid off, and the deed shall so state. The court may, on application, put the purchaser in possession of the premises by writs of assistance.

Effect of deed.

SEC. 68. All lands purchased in the name of the State at any tax sale, and on which redemption has expired, shall be subject to sale at any time thereafter, except as herein provided, by the Auditor General, for the purchase price and interest at the rate of one per cent for each month or part of a month from the first day of the month in which such lands were bid off to the State to the date of the application therefor. Deeds shall be executed by the Auditor General or his deputy to the purchaser on payment to the State Treasurer on the certificate of the Auditor General, of the purchase price and interest as above provided. All lands bid in to the State remaining unredeemed, and on which redemption has not expired, shall be subject to sale at any time, except as herein provided, by the Auditor General, and upon payment therefor, on his certificate to the State Treasurer, of the amount for which such lands were bid off to the State, with interest at the rate of one per cent for each month or part of a month, to be computed from the first day of May of the year in which such lands were bid off to the State to the time of application for the purchase thereof, and the Auditor General shall issue to the purchaser a certificate of purchase. If any bids so purchased before redemption has expired shall be redeemed, the purchaser shall be entitled to the amount paid for the redemption thereof, except the office charges; if otherwise discharged, then to the amount paid by him with interest at seven per cent per annum from the date of purchase to the date of refunding; but if not redeemed or otherwise discharged the Auditor General or his deputy shall, on surrender of such certificate of purchase, execute to the purchaser or his assigns a deed for the lands therein described. No sale of State tax lands or of State bids shall be made by the Auditor General after he has sent the list of State tax lands to the county treasurer until he receives returns of the sales made by such officer. Every such sale shall be subject to all taxes assessed and levied on such lands subsequent to the taxes for which the land was bid off in the name of the State, and the deed shall so state; such deed shall have the same force and effect as a deed made for lands sold at the annual sale as hereinbefore provided.

Lands bid off to State subject to sale, etc.

In case of redemption, etc.

No sale by Auditor General after lists have been sent, etc.

Effect of deed.

SEC. 69. All lands that may hereafter be bid off, in the name of the State for taxes, which have not been disposed of prior to any annual sale, shall be again offered at such annual sale. The

Lands hereafter bid off to State, to be offered at annual sale, etc.

Publication of notice, e.c.	Auditor General shall furnish to each county treasurer a statement of all such lands in his county. Such statement shall exhibit the amount of the purchase price of each parcel, together with interest thereon at the rate of one per cent per month from the time the lands were bid in, to the day fixed for the annual tax sale in the year in which they are to be offered. The Auditor General shall cause to be published for four weeks successively next previous to the day fixed for the annual tax sale, a notice that the lands described in such statement will be sold at public auction by the treasurer of the county in which such lands are situated at the time and place designate for such annual sale. Such notice shall not describe the lands or state the amount of taxes and charges thereon. At the time designated in the notice, such county treasurer shall offer the lands embraced in such statement for sale to the highest bidder; but no bid shall be accepted unless equal to the amount chargeable against such land as set forth in said statement. The county treasurer shall, on payment of the purchase money, issue certificates of sale to the purchasers in such form, and make such returns to the Auditor General, as shall be prescribed by him. Every such sale shall be subject to all taxes assessed and levied on such lands subsequent to the taxes for which the land was bid off in the name of the State, and the deed shall so state.
Need not describe lands, etc.	SEC. 70. The notices herein required to be published shall be published in some paper of the county in which the land is situated, if there be any such paper in general circulation and which was established two months at least before the first day of July preceding such publication. If there be no such paper, then one having the same essentials and published in an adjoining county, shall be chosen. If there be no such paper in the county where the land lies, nor in an adjoining county, or if the proprietor of such paper refuses or neglects to publish the notices, the Auditor General may select some other paper. The cost of such notices shall be paid by the State on the warrant of the Auditor General, not exceeding forty cents for each parcel of land advertised. The proprietor of such paper shall furnish the proper county treasurer and Auditor General each with two copies of each issue containing such notices, and it shall be the duty of such Auditor General and treasurer to carefully examine the notices published and see that they are correct. Any person familiar with the facts may make an affidavit as to the publication required. The Auditor General shall not pay for any such publication until satisfied that it has been made according to law.
Bid must equal tax, etc.	SEC. 71. All lands heretofore assessed or returned as delinquent for non-payment of taxes thereon upon which no sale has been made, shall be sold under the provisions of this act, in the same manner and with like effect as if assessed and returned as herein provided, and the same presumptions of regularity and legality shall apply thereto: <i>Provided</i>, That all lands heretofore bid off, or that may hereafter be bid off in the name of the State for taxes assessed for the year eighteen hundred and eighty-six and
Subject to subsequent taxes, etc.	
Notices of sales, where and how published, etc.	
Limit of cost of publication.	
Extra copies of paper to be furnished, etc.	
Affidavit of publication, etc.	
Lands heretofore returned as delinquent, etc.	
Proviso.	

previous years, which have not been disposed of prior to any annual sale, shall be again offered at such annual sale. The Auditor General shall furnish to each county treasurer a statement of all such lands in his county. Such statement shall exhibit the amount of the purchase price of each parcel, together with interest thereon, at the rate of one per cent per month from the time the lands were bid in to the day fixed for the annual tax sale in the year in which they are to be offered. The Auditor General shall cause to be published for four weeks successively next previous to the day fixed for the annual tax sale, a notice that the lands described in such statement will be sold at public auction by the treasurer of the county in which such lands are situated at the time and place designated for such annual sale; such notice shall not describe the lands nor state the amount of taxes and charges thereon. At the time designated in the notice such county treasurer shall offer the lands embraced in such statement for sale to the highest bidder, but no bid shall be accepted unless equal to twenty-five per cent of the amount chargeable against such lands as set forth in such statement: *Provided*, All losses sustained by selling lands for less than the taxes, interest and cost against the same shall be borne by each tax as classified when assessed against the same, *pro rata*.

Statement of
such lands, etc.

Notice of sale,
publication, etc.

Limit of bid,
etc.

Provido.

OF ACCOUNTS AND THE SETTLEMENT THEREOF.

SEC. 72. The accounts between the State, the county, and each township shall be adjusted on the basis of crediting and paying to each the taxes collected for each, with interest thereon. The Auditor General, on the first days of January, April, July and October in each year, shall make a statement of the account between the State and each county respectively, and render the same to the county treasurer of the proper county, and draw his warrant on the State Treasurer, payable to the county treasurer, for all moneys in the State treasury collected for county, township, school and highway purposes for the several townships of such county, and also all other moneys in the State treasury belonging to such county, and transmit such warrant to the county treasurer, and notify the county clerk thereof. At the same time the county treasurer shall pay to the State all moneys due from the county to the State as shown by said account so rendered by the Auditor General to be due to the State. The county treasurer shall also make a statement of the accounts between the county and each of the townships therein respectively, and render the same to the township treasurer of the proper township. At the same time he shall pay over to the township treasurer the amount of all moneys in the county treasury belonging to such township, and notify the township clerk thereof.

Accounts,
settlement of,
etc.

Quarterly state-
ment by Auditor
General, etc.

Statement by
county treas-
urer, etc.

SEC. 73. The Auditor General shall once in each month transmit to the treasurer of each county lists of lands therein upon which the taxes have been paid to the State Treasurer, and also list of the lands bid in the name of the State, which have been sold

Monthly list of
lands on which
taxes have been
paid, etc.

during the preceding month, and upon receiving such lists the county treasurer shall make the proper entries showing such payment or sale. Where a sale has been made by the Auditor General the county treasurer shall note the fact upon the tax record.

Interest on
unpaid taxes,
etc.

SEC. 74. To all taxes unpaid on the first day of March next after their assessment there shall be added interest at the rate of one per cent for every month or part of a month during which such taxes remain unpaid, and to all taxes returned to the county treasurer there shall also be added a collection fee of four per cent. Such interest and collection fee shall be collected with such taxes and the interest and taxes paid to the State, county, and township, in proportion to their several rights therein. The collection fee paid to the county treasurer shall belong to the general fund of the county, and that paid to the Auditor General shall belong to the general fund of the State. No other charges shall be added to any taxes voluntarily paid either to the township treasurer, the county treasurer or the State Treasurer, except the expense after it accrues under section fifty-two of this act.

Other charges
not to be added,
etc.

Compensation
of officers, how
paid, etc.

SEC. 75. All compensation of officers in the assessment and collection of taxes in townships and in the return of delinquent taxes to the county treasurer, except fees collected by township treasurers, on their tax rolls shall be paid by the township. All compensation of county officers and expense incurred by them under the provisions of this act shall be paid by the county, and the compensation of all State officers and expenses by them incurred or paid shall be paid by the State. Expenses made by the State officers shall be audited by the Auditor General and paid out of the general fund.

Losses by
default, where
chargeable, etc.

SEC. 76. All losses that may be sustained by the default of any township officer in the discharge of any duty imposed by this act, shall be chargeable to such township. All losses by default of any county officer shall be chargeable to such county, and all losses by default of any State officer shall be chargeable to the State.

MISCELLANEOUS PROVISIONS.

Lists of part-
paid and home-
stead lands, etc.

SEC. 77. The Commissioner of the State Land Office shall, during the month of March in each year, furnish to the several county treasurers a list of all part paid State lands, and also of all licensed homestead lands that have been licensed for a term of five years and over, and upon which patents have not been issued, together with the date of each license and the name of the licensee, in their counties respectively and such treasurers shall, on or before the tenth day of April next thereafter, cause to be delivered to the supervisor of each township affected thereby an accurate description of all such lands in his township, with the names of the persons holding the same.

Bond of county
treasurer,
approval of, etc.

SEC. 78. Every county treasurer shall, before entering upon the duties of his office, execute to the Auditor General a bond, in such sum as the said Auditor General shall direct, with three or

more sureties, to be approved by the prosecuting attorney, judge of probate, and the county clerk of the proper county, or any two of them and the Auditor General, conditioned that such treasurer, his deputy, and all persons employed in his office, shall render a just and true account of all moneys received by him or them belonging to the State, and that he or they shall faithfully and promptly pay to the State Treasurer all such moneys received as aforesaid according to law, which bond shall be filed in the office of the Auditor General. Whenever the Auditor General shall deem proper, he may require of the county treasurer a new bond with surety or sureties to be approved as aforesaid, and for such sum as he may deem necessary, and if any county treasurer from whom a new bond shall be so required shall not execute such a bond within ten days after he shall have received notice of such requirement, such failure may be deemed sufficient cause for the removal from office of such treasurer.

SEC. 79. In case the said county treasurer shall refuse or neglect to execute and file any such bond at the time and in the manner aforesaid, the Auditor General shall employ, in behalf of the State, some other person to conduct the sales of lands delinquent for taxes, and to receive payment therefor, under his direction, upon such person executing and filing with the said Auditor General, a similar bond with sureties as above mentioned, to be by him approved, conditioned for the faithful and prompt payment to the State Treasurer of all moneys which may come into his hands as the proceeds of such sale or otherwise, and a reasonable compensation for the services of such person shall be allowed and paid out of said proceeds.

In case of refusal to execute bond, etc.

SEC. 80. If the Auditor General shall discover before the sale of any lands, as aforesaid, that for any reason they should not be sold, he shall cause the same to be withheld from sale; and if the error originated with the township or county officers the amount of such taxes shall be charged against the county from which the same were returned; if such error was made by township officers the amount thereof shall be charged by the county treasurer to the township in which such error occurred. If there has been a change in the boundaries of the county or town in which the lands are situated after the return of such taxes, such rejected taxes shall be charged to the county to which the lands belong at the time of such rejection.

When lands to be withheld from sale, etc.

Charge of taxes, etc.

SEC. 81. The Auditor General shall prepare and forward to the county treasurer a statement of such rejected taxes, and a description of the lands upon which the same were assessed; and such county treasurer shall lay the same before the board of supervisors at their next session thereafter, and if such taxes shall have been rejected or charged back by the Auditor General, except for the reason that such land was not subject to taxation at the time of the assessment for such taxes, or that the taxes thereon had been paid, or that there had been a double assessment thereof, the board of supervisors shall cause the same to be re-assessed upon

Rejected taxes, statement of, etc.

the same land, and collected with the taxes of the then current year, and in the same manner.

Re-assessment
of.

SEC. 82. If such taxes cannot be properly re-assessed upon the same lands, the board of supervisors shall cause the same to be re-assessed upon the taxable property of the proper township.

Duty of board
of supervisors
relating thereto,
etc.

SEC. 83. It shall be the duty of the board of supervisors to furnish to the Auditor General a list of all taxes which shall have been rejected or charged back to their county by him, upon lands which shall have been detached from such county subsequent to the time when such taxes were assessed, and the Auditor General shall thereupon credit to such county the amount which he may have so far charged back, and charge the same to the county in which such lands may then be situated: *Provided*, Such taxes shall not have been previously paid or re-assessed.

Proviso.

When deed to
be withheld and
money refunded
to purchaser,
etc.

SEC. 84. Whenever any lands returned to the office of the Auditor General shall have been sold on account of non-payment of taxes thereon, if the Auditor General shall discover, before a conveyance of said land is executed and delivered—

First, That the land so sold was not subject to taxation at the date of the assessment of the taxes for which it was sold; or,

Second, That the taxes had been paid to the proper officer within the time limited by law for the payment or redemption thereof; or,

Third, That such sale was in contravention of section sixty-two of this act; or,

Fourth, That a certificate that no taxes were charged against said [land] lands has been given by the proper officer, within the time limited by law for the payment or redemption thereof, he shall withhold a conveyance of such lands, and shall, on demand, cause the money paid therefor to be refunded to the purchaser, with interest thereon at seven per cent: *Provided*, That in the last mentioned case the person in whose behalf such certificate was given shall, at the time of presenting such certificate to the Auditor General, pay to the State Treasurer, on the statement of the Auditor General, all taxes and charges due to the State upon such land at the time such certificate was issued. If the discovery is not made until after conveyance has been executed and delivered, a certificate of error may be issued in proper form for record, and the deed, if not recorded, shall be surrendered when the purchase money is refunded; if the deed has been recorded, the money shall be refunded on a recorded release from the holder of the tax deed.

Proviso.

In case deed has
been issued, etc.

Validity of
taxes, etc.

SEC. 85. No tax assessed upon any property, or sale therefor shall be held invalid on account of any irregularity in any assessment, or on account of any assessment or tax roll not having been made or proceeding had within the time required by law, or on account of the property having been assessed without the name of the owner, or in the name of any person other than the owner, or on account of any other irregularity, informality, or omission, or want of any matter of form or substance in any proceeding that does not prejudice the rights of the person whose property is taxed;

and all proceedings in assessing and levying taxes, and in the sale and conveyance therefor, shall be presumed to be legal until the contrary is affirmatively shown. All records, statements, and certificates herein provided for shall be *prima facie* evidence of the facts therein set forth. The absence of any record of any [proceeding] proceedings, or the omission of any mention in any record of any vote or proceeding, or of mention of any matter in any statement or certificate that should appear therein under the provisions of any law of this State, shall not affect the validity of any proceeding, tax, or title depending thereon, provided the fact that such vote or proceeding was had or tax authorized is shown by any other record, statement, or certificate made evidence by the terms of this act or any other law of this State. No tax, or sale of property for any tax, shall be rendered or held invalid by showing that any record, statement, certificate, affidavit, paper or return cannot be found in the proper office; and unless the contrary is affirmatively shown, the presumption shall be that such record was made and such certificate, statement, affidavit, paper or return was duly made and filed. Where any statement, certificate, or record is required to be made or signed by a school district board or a township board, such statement, certificate, or record may be made and signed by the members of such boards, or a majority thereof, and it shall not be necessary that other members be present when each signs the same. The provisions of this section shall not be construed to authorize any showing impeaching the validity of any deed executed by the Auditor General under the provisions of this act, but such deed shall be held absolute and conclusive as herein provided.

Absence of
record, etc.

Signatures of
boards, etc.

Validity of deed
not impeach-
able, etc.

SEC. 86. In any suit or proceeding to enforce or set aside any tax, such tax shall be held illegal only for one of the following reasons:

Legality of
taxes, etc.

First, That no law authorizes such tax;

Second, That the person or persons appointed to decide whether a tax shall be raised under a given law have acted without jurisdiction, or have not imposed the tax in question;

Third, That the person or property assessed was exempt from the taxation in question, or was not assessed;

Fourth, That the tax has been paid;

Fifth, That the supervisor or board of review, in assessing a person or property for taxation, or in the apportionment of the tax to the person or property in question, acted fraudulently. If any such illegality, omission or fraud affects the amount of the tax only, the tax shall be sustained so far as the same is just and legal.

When amount
only is affected.

SEC. 87. In the prosecution or defense of any action or proceeding by any person holding or claiming land under any deed or deeds of land purchased for delinquent taxes, the party so claiming under and by virtue of such purchase may show his title to said land and premises, whether the same was derived under one or more purchases, and may give in evidence any and all deeds of conveyance or other evidence of such purchases as aforesaid,

Purchaser may
claim under
any or all deeds,
etc.

which he may at any time have received, and may claim title under any or all of them.

Prosecuting attorney to give advice, etc.

SEC. 88. It shall be the duty of the prosecuting attorney of each county to give his counsel and advice to the county treasurer, the township treasurers, and the supervisors of the county, whenever they or any of them may deem it necessary for the proper discharge of the duties imposed upon them in this act, free of charge.

In case purchaser dies, etc.

SEC. 89. In all cases of sale of lands for taxes, if the purchaser or his assigns shall die before a deed shall be executed on such sale, the deed may be executed by the Auditor General, to and in the name of the deceased person, if such deceased person being still alive would be entitled to a deed, which deed shall vest the title in the heirs or devisees of such deceased person, in the same manner, liable to like claims of creditors and other persons as if the same had been executed to such deceased person immediately previous to his death, or the executor or administrator may assign the certificate of purchase and the deed may issue to the assignee thereof, and in like cases which have heretofore occurred, the same rule shall apply, and all deeds heretofore issued in the name of any person deceased who, if living at the time of the execution thereof, would have been entitled thereto, shall have like effect as above provided.

Return of delinquent part-paid and homestead lands, etc.

SEC. 90. The county treasurer shall, at the same time when he makes his return of delinquent lands to the Auditor General, make a similar return to the State land office of all homestead and part-paid State lands, the fee of which is in the State, the taxes upon which have not been collected, with a statement of the amount thereof. The Commissioner of the State Land Office shall provide suitable books, and enter in the same the description of every parcel of land so returned to his office, and the taxes thereon. The person holding such interest in any parcel of said lands shall, on or before the first day of July following such return, pay to the State Treasurer the taxes assessed thereon, with interest at the rate of one per cent per month from the first day of March last preceding; and in default thereof the certificate of purchase of such parcel shall become void and such land shall be subject to sale and redemption in the same time and manner as lands forfeited for non-payment of interest; and no patent shall be made of such lands until all taxes thereon are paid.

Duty of Commissioner of Land Office.

SEC. 91. The Commissioner of the State Land Office shall, on or before the first day of May and November in each year, make out and furnish to the Auditor General a statement containing a description of the lands upon which the taxes have been paid, and the amount of such payments, and shall, at the same time, transmit to each county treasurer a copy of such statement so far as the same relates to his county. The Auditor General shall credit to each county its proper part of such taxes, and the county treasurer shall credit each township with its share of such amount.

SEC. 92. If any person dispossessed of lands purchased in pursuance of the provisions of this act shall have made improvements thereon, he shall be entitled to recover what such improvements are worth, and shall have a lien on such lands therefor, and may enforce the same by bill in equity where no other provision is made by law.

Defendant entitled to value of improvements, etc.

SEC. 93. In case of the organization of a new county after the time for making the assessment roll and prior to the return of the township treasurer, such new organization shall in no way affect the assessment, collection or return of taxes for that year on any lands attached to the new county. No division of a township after the time for making the assessment roll, and prior to the return of the township treasurer, shall in any way affect the assessment, collection and return of such taxes; but such taxes shall be assessed, collected and returns made as though there had been no such division. If lands are detached from any county after the taxes thereon are returned to the Auditor General, and any such taxes are afterwards rejected or set aside, the county from which they are detached shall receive credit, and the county to which they are attached shall be charged, as may be proper under the provisions of this act.

In case of new county, etc.

Division of township, etc.

SEC. 94. In the case of the loss of any certificate of sale, the purchaser, or his legal representative or assignee, may file his affidavit of such loss, and that he was, at the time of such loss, the *bona fide* and legal holder thereof; and the Auditor General, or his deputy, shall thereupon execute, as aforesaid, a deed for the lands described in such certificate, if the same shall not have been redeemed, in the same manner as though it had been presented and surrendered; and if the same shall have been redeemed, on the presentation of such affidavit, the money shall be paid to such person in the same manner as though the certificate of sale had been surrendered. The Auditor General shall execute a second deed of lands conveyed as herein provided, in all cases in which he shall be satisfied, by sufficient proof, that the original deed and record thereof has been lost or destroyed, which said deed shall declare upon its face that it is a second deed, and shall be executed to the same party only as the first, and shall recite the loss or destruction of the former deed and its date, if possible. Such deed shall inure to the benefit of the grantee in the first deed, his heirs or assigns, as the case may be, and shall have the same force and effect as said first deed. Before the execution of such deed the party applying therefor shall pay to the State Treasurer the sum of fifty cents. Any person who shall make an affidavit as above required, or concerning any other matter which may be filed in the office of the Auditor General, shall be liable to the penalties of perjury for any false statement made in such affidavit with intent to defraud, upon conviction thereof, before a court having jurisdiction of the offense, and shall be liable in treble damages to any person who may suffer loss or injury by reason of such false affidavit.

In case of loss of certificate, etc.

When second deed to issue, etc.

Fees for.

False statement to be perjury, etc.

SEC. 95. The taxes on any lands returned as delinquent may be

Payment of
delinquent
taxes, etc.

Proviso.

Act to apply to
certain cities
and villages.

Township to
include what.

Proviso for a
board of review.

Sessions of.

Officers of, etc.

Oath of.

Unpaid city or
village taxes,
etc.

paid to the county treasurer at any time prior to the day of sale, or to the State Treasurer, at any time before the petition for sale thereof shall be sent to the county treasurer, and not thereafter. After such petition is filed with the register, payment of part of the taxes therein specified shall not stay proceedings thereon to enforce payment of such taxes as are not paid. After decree and before sale the total amount as fixed by such decree may be paid, but a less sum shall not be received: *Provided*, That the county treasurer at any time previous to the sale of any lands heretofore assessed for the taxes of eighteen hundred and eighty-five and previous years, and which have been returned as delinquent therefor and of which no sale has been made for any cause, is authorized and directed to receive in full payment and discharge of such taxes of the year eighteen hundred and eighty-five and previous years, and the interest and charges thereon, fifty per cent of such taxes, interest and charges; or such payment of fifty per cent of such taxes, interest and charges may be made to the State Treasurer at any time before the petition for the sale shall be sent to the county treasurer.

SEC. 96. This act shall be applicable to all cities and villages where not inconsistent with their respective charters. With such exceptions the provisions herein as to supervisors, township treasurers, and boards of review shall include all assessing and collecting officers, and all boards whose duty it is to review any assessment roll. The word township may include city, ward, or village. When, by the charter of any city or village, delinquent taxes or assessments are returned with other taxes to the county treasurer, such city or village shall not be entitled to payment of or credit for the same until the money has been received, notwithstanding anything in their respective charters to the contrary: *Provided*, That in any incorporated city, the charter of which does not provide for a board of review, such board shall consist of the several supervisors or other officers making the assessment, the city attorney and additional members to be appointed by the common council, who shall not be aldermen, equaling the number of supervisors or assessing officers. The session of said board of review shall be held at the council room on the same days as designated for the meeting of the township board of review, and the proceedings thereof conducted, as near as may be, in the same manner. Said board shall elect a chairman and clerk, who shall certify to the correctness of the several assessment rolls when completed, substantially as the form prescribed in section nineteen of the act. The appointed members of said board of review shall take the constitutional oath of office, which shall be filed in the office of the city recorder or clerk.

SEC. 97. The authorities of any city or village, the charter of which does not so provide, may provide by ordinance for the return of all unpaid taxes on real property to the county treasurer in the same manner and with like effect as returns by township treasurers. The taxes thus returned shall be collected in the same manner as other taxes returned.

SEC. 98. The authorities of any city or village which, by its charter, has the right to sell lands for unpaid taxes or assessments, may provide for judicial sale of such lands. Such sale shall be made on petitions filed in behalf of the city or village in interest, and shall conform, as near as practicable, to the provisions as to sale in this act. May provide for judicial sale, etc.

SEC. 99. When an officer is authorized to do any act his deputy shall have the same authority, and such officer shall be responsible for the acts of his deputy. Authority of deputies.

SEC. 100. Supervisors shall be allowed for their services in assessing property, making tax rolls and for extending taxes thereon, at the rate of two dollars for each day actually and necessarily spent in making the same; the members of the board of review shall be paid at the same rate per day for each day actually and necessarily spent in the attendance upon the board; the accounts for such services shall be verified, audited and paid as other township expenses. County officers shall be paid for services under this act by salary or otherwise as the board of supervisors shall determine: *Provided*, That the city of Detroit shall be exempted from the provisions of the last clause of this section, and the common council shall have power to fix and determine the compensation of the city assessor thereof. Compensation of supervisors.
Of board of review.
Of county officers.
Proviso for Detroit.

SEC. 101. The township treasurer, with the consent of the township board, may appoint a deputy who shall possess all the powers and may perform all the duties of the treasurer. Such township treasurer and his bondsmen shall be liable for all the acts and defaults of such deputy treasurer. Such deputy shall be paid by the treasurer. Of deputy township treasurer.

SEC. 102. If at any time it shall be discovered that the treasurer of any township has received the tax assessed upon property which he has returned delinquent, the supervisor shall have power, and he is hereby required to collect the same, in the name of his township, from such treasurer or his sureties, together with interest and charges. Of taxes paid but returned by treasurer.

SEC. 103. It shall be unlawful for any person to cut or remove any logs, wood or timber from any lands sold and bid in by the State of Michigan for the non-payment of taxes, while the State remains the owner of such lands by virtue of such sale, and if any person shall cut or remove such logs, wood, or timber from such lands during the time aforesaid, the Auditor General or his deputy shall issue a warrant under his hand, in the name of the people of the State of Michigan, directed to the sheriff of the county where such lands are situated, giving therein a description of such lands, the amount of such taxes, with interest and charges thereon then remaining unpaid, commanding such sheriff forthwith to seize such logs, wood, or timber wherever the same may be found in any county in this State, and to sell the same or a sufficient quantity thereof to satisfy such taxes with the interest and charges thereon and the costs of such seizure and sale. The sheriff shall receive such warrant and execute the same, as therein directed, as in case of levy and sale on execution, and make return thereof Logs, etc., not to be cut from State tax lands, etc.

State trespass agent to have lists of lands; duty of, etc.

Injunction not to issue.

Injunction to restrain waste etc.

Wrong assessment willfully a misdemeanor, etc.

Penalty for failure to make proper entry, etc.

Perjury, what to be, etc.

Willful neglect, etc., a misdemeanor, etc.

Cashier, neglect of duty by, a misdemeanor, etc.

with his doings thereon to the Auditor General, within sixty days after the receipt of the same, and pay over all money collected thereon to the State Treasurer. The Auditor General shall furnish the State trespass agent with lists or plats of land bid in by the State, and remaining unpaid, and the said trespass agent shall examine such lands and promptly report to the Auditor General all violations of the provisions of this section.

SEC. 104. No injunction shall issue to stay proceedings for the assessment or collection of taxes under this act.

SEC. 105. The holder of any certificate of sale shall, at any time after its issue, have the right to an injunction to restrain waste on any of the lands described in such certificate, where such lands are chiefly valuable for timber, and the circuit court in chancery of the county in which such lands are situated shall have jurisdiction to grant such relief on bill or petition where no other relief is sought.

SEC. 106. If any supervisor or other assessing officer of any township or city shall willfully assess any property at more or less than what he believes to be its true cash value, he shall be guilty of a misdemeanor, and on conviction thereof he shall be punished by imprisonment in the county jail not exceeding one year, or by fine not exceeding three hundred dollars, at the discretion of the court. If any board whose duty it is to review the assessments of an assessing officer shall willfully assess property at more or less than its cash value, the members voting in favor of such action shall severally be guilty of a misdemeanor, and on conviction shall be punished by imprisonment in the county jail not exceeding six months, or by fine not exceeding three hundred dollars, at the discretion of the court.

SEC. 107. If any officer to whom any tax is paid shall fail to make proper entry and return of such payment, he shall be liable to any person injured for the full amount of the injury, and if such failure is willful he shall be guilty of a misdemeanor, and shall, on conviction thereof, be punished by imprisonment in the county jail not more than six months, or by fine not more than three hundred dollars.

SEC. 108. Any person who, under any of the proceedings required or permitted by this act, shall willfully swear falsely, shall be guilty of perjury and subject to its penalties.

SEC. 109. Any officer who shall willfully neglect or refuse to perform any of the duties imposed upon him by this act shall, when no other provision is made herein, be guilty of a misdemeanor, and on conviction thereof shall be punished by imprisonment in the county jail not exceeding six months, or by fine not exceeding three hundred dollars, in the discretion of the court, and shall be liable to any person injured thereby to the full extent of the injury sustained.

SEC. 110. If the cashier of any bank shall willfully neglect or refuse to make and file, in the office of the county clerk, a list of the names of the stockholders, the amount of stock held by each, and their respective residences, as provided in this act, or shall

willfully make and file any false entry or statement in any such list, he shall be guilty of a misdemeanor and on conviction be punished by fine not exceeding three hundred dollars.

SEC. 111. It shall be the duty of the Auditor General to furnish in due season to the several county clerks, at the expense of the State, all blanks and record books made necessary by this act. Auditor General to furnish blanks, etc.

SEC. 112. The Auditor General shall, from time to time, whenever he shall find it necessary, cause to be printed at the expense of the State, a sufficient number of copies of this act, with such forms of proceeding under the same as may be necessary and proper, to furnish one copy to each supervisor, township treasurer, township clerk, and county clerk, and three copies to each county treasurer, and shall transmit to each county treasurer, at the expense of the county, a sufficient number for such county; and every county treasurer receiving such copies shall immediately transmit to the township clerk of each township five copies, to be distributed by him to the officers entitled thereto. To have this act printed for distribution, etc.

SEC. 113. All acts or parts of acts in any wise contravening any of the provisions of this act are hereby repealed, but such repeal shall in no manner affect any rights which may have accrued under such acts or parts of acts, but the same shall remain in force for the completion of all proceedings heretofore begun for the collection of taxes, except as otherwise provided herein. Acts, etc., repealed.

This act is ordered to take immediate effect.

Approved June 27, 1889.

SPECIAL LAWS RELATIVE TO TAXES.

LIQUOR TAX LAW.

[Act No. 213, 1889.]

AN ACT to provide for the taxation and regulation of the business of manufacturing, selling, keeping for sale, furnishing, giving or delivering spirituous, intoxicating, malt, brewed, fermented, or vinous liquors in this State, to provide for the recovery of actual and exemplary damages, and to repeal all acts or parts of acts inconsistent with the provisions of this act.

Annual tax,
etc., amount of.

SECTION 1. *The People of the State of Michigan enact*, That in all townships, cities, and villages of this State there shall be paid annually upon the business of manufacturing, selling, or keeping for sale by any person, firm, or corporation whose business in whole or in part consists in manufacturing, selling, or keeping for sale spirituous or intoxicating, malt, brewed, fermented, or vinous liquors, or any mixed liquors, or any compound which in whole or in part consists of spirituous, malt, brewed, fermented, or vinous liquors, excepting proprietary patent medicines, the following tax: Upon the business of manufacturing spirituous or intoxicating liquors, and selling the product of such business at wholesale only, one thousand dollars; upon the business of manufacturing brewed, malt, or fermented liquors and selling at wholesale only the liquors manufactured, sixty-five dollars; upon the business of selling spirituous or intoxicating liquors at wholesale and not at retail, five hundred dollars; upon the business of selling malt, brewed, fermented, or vinous liquors at wholesale and not at retail, five hundred dollars: *Provided*, That no person, firm, or corporation paying a wholesale tax on the business of selling distilled or spirituous or intoxicating liquors shall be required to pay a tax for selling at wholesale malt, brewed, fermented, or vinous liquors at the same place of business; upon the business of selling spirituous, intoxicating, malt, brewed, fermented, or vinous liquors at retail, five hundred dollars: *Provided*, That the payment of the retail tax shall not

Manufacture
of liquor, tax
for.

Wholesale tax.

Idem.
Proviso.

Retail tax.

Proviso.

entitle the person or persons paying the same to keep or maintain more than one bar, or to sell any such liquors at any place other than such bar; upon the business of selling spirituous, intoxicating, malt, brewed, fermented, or vinous liquors at wholesale and retail, ten hundred dollars. And it shall not be lawful for any person, firm, or corporation to sell or furnish any of the liquors named in this section to any dealer who has not at the time paid the tax required by this section, for the business in which he is or may be engaged, and for that portion of the year in which such sale shall be made, and any contract for such sale shall be void, and no recovery shall be had in any court on any such contract nor for the value of any liquor sold in violation of this act. No tax imposed under this act shall be required from any person for selling any wine or cider made from fruits grown or gathered in this State, unless such wine or cider be sold by the drink.

Retail and
wholesale tax.

Not lawful to
sell to dealer
who has not
paid the tax.

No tax on wine
or cider.

SEC. 2. Retail dealers of liquors mentioned in the preceding section shall be held and deemed to include all persons who sell any of such liquors by the drink, and in quantities of three gallons or less, or one dozen quart bottles or less, at any one time to any person or persons. Wholesale dealers shall be held and deemed to mean and include all persons who sell or offer for sale such liquors in quantities of more than three gallons or more than one dozen quart bottles at any one time, to any person or persons.

Who are retail
dealers.

SEC. 3. The penal provisions of this act shall not apply to druggists who sell liquors for chemical, scientific, medicinal, mechanical or sacramental purposes only, and in strict compliance with law. It shall not be lawful for any druggist, nor for any person whose business consists in whole or in part of the sale of drugs and medicines, directly or indirectly, by himself, his clerk, agent or servant, at any time to sell, furnish, give, or deliver, any spirituous, malt, brewed, fermented or vinous liquor, or any mixed liquor, a part of which is spirituous, malt, brewed, fermented or vinous, to a minor, except for medicinal or mechanical purposes, on the written order of the parent or guardian of such minor, nor to any adult person whatever who is at the time intoxicated, nor to any person in the habit of getting intoxicated, nor to any Indian, or any person of Indian descent, nor to any person when forbidden in writing so to do by the husband, wife, parent, child, guardian or employer of such person, or by the supervisor of the township, or mayor, or director of the poor, or any supervisor or alderman of the city, or president or trustee of any village, or superintendent of the poor of the county in which such person shall reside or temporarily remain, nor to any other person to be used as a beverage, nor to any person to be drank on the premises, nor to be mixed and drank with any beverage drawn from a soda fountain or other apparatus or device for dispensing aerated or other beverages; but such druggist shall be allowed to sell said liquors for medicinal, chemical, scientific, mechanical and sacramental purposes only, without the payment of any tax specified in section one, and subject to the following restrictions and conditions. Every such dealer in drugs and

Penal provisions not to
apply to
druggists, etc.

To whom unlawful
to sell, etc.

Druggists to
keep record of
all sales, etc.

Proviso relating
to druggists'
bond.

medicines shall procure and keep a suitable blank book in which shall be recorded by said druggist, his clerk, or employé the name of all persons applying for such liquor for any of these lawful purposes, the date of each sale, the amount and kind of liquor sold to each person, and the purpose to which the same was to be applied, as stated by the purchaser, which book shall be kept in the store of said druggist, and shall be open to all persons for examination during all business hours; and the failure to keep record of every such sale, in manner and form as aforesaid, or the delivery of liquor for any purpose other than above named shall subject such druggist to the penalties provided for in this section: *Provided*, That such druggist shall, on or before the first day of May in each year, or before commencing business execute and file with the county treasurer of the county in which he is carrying on such business, a bond, the sufficiency of which shall be determined by the township board of the township, or the board of trustees, or the common council of the village or city in which such business is proposed to be carried on, to the people of the State of Michigan, in the sum of two thousand dollars, with two or more sufficient sureties, who shall be freeholders and residents of the county in which such business is proposed to be carried on, each of whom shall justify in a sum equal to the amount of the bond, over and above all indebtedness and all exemptions from sale on execution, and all liability on other similar bonds, which bond shall be substantially in the following form:

Form of.

Know all men by these presents, that we
as principal and and
as sureties, are held and firmly bound unto the people of the State of Michigan in the sum of two thousand dollars, to the payment whereof, well and truly to be made, we bind ourselves, our heirs, executors, and administrators firmly by these presents. Sealed with our seals and dated this day of 18....

WHEREAS, The above named principal proposes to carry on the business of a druggist at, in the county of and State of Michigan:

AND WHEREAS, The said principal hath covenanted and agreed, and doth hereby covenant and agree as follows, to-wit: That he will not directly or indirectly, by himself, his clerk, agent or servant, at any time sell, furnish, give, or deliver any spirituous, malt, brewed, fermented or vinous liquor, or any mixed liquor, a part of which is spirituous, malt, brewed, fermented or vinous, to a minor, except for medicinal or mechanical purposes, on the written order of the parent or guardian of such minor, nor to any adult person whatever who is at the time intoxicated, nor to any person in the habit of getting intoxicated, nor to any Indian, or any person of Indian descent, nor to any person when forbidden in writing so to do by the husband, wife, parent, child, guardian, or employer of such person, or by the supervisor of the township, mayor or director of the poor of the city, or superintendent of the poor of the county in which such person shall reside or tempo-

arily remain, and that he will not sell any such liquor to be drank on the premises, nor to be mixed and drank with any beverage drawn from a soda fountain or other apparatus or device or dispensing aerated or other beverages; that he will sell such liquors for chemical, scientific, medicinal, mechanical and sacramental purposes only, and that he will pay all damages, actual and [exemplary] exemplaries, that may be adjudged to any person or persons for [injuries] injury inflicted upon him or them, either in person or property, or means of support, or otherwise by reason of his selling, furnishing, giving or delivering any such liquors. Now the condition of this obligation is such that if said principal shall well and truly keep and perform all and singular the foregoing covenants and agreements, and shall pay any judgment for actual or exemplary damages which may be recovered against him in any court of competent jurisdiction, and all fines and costs that may be imposed upon him for violations of this act, then this obligation shall be void and of no effect, otherwise the same shall be in full force and effect.

Signed and sealed in the presence of

----- [L. S.]
 ----- [L. S.]
 ----- [L. S.]

A new bond shall be required by the county treasurer with whom such bond was originally filed in case of the death, insolvency, or removal of either of the sureties. And it shall not be lawful for any person to sell any of the liquors mentioned in this section after being notified by the county treasurer to procure a new bond, until said bond shall have been executed and approved by proper authority: *Provided, however,* That no new bond shall be required by the county treasurer of any person or persons who have filed a bond and are doing business under the provisions of this section until it shall be made to appear to said county treasurer, upon summary hearing, that either of the sureties upon such bond has died, removed or become insolvent. And such hearing shall not be had until after reasonable notice thereof, stating the time and place of such hearing, shall have been given in writing by said county treasurer to the principal or principals on such bond. Whenever any druggist shall violate any of the provisions of this section, if there is no specific penalty provided therefor by this act, he shall, on conviction thereof, be deemed guilty of a misdemeanor, and be punished by a fine of not less than one hundred nor more than five hundred dollars and costs of prosecution, or by imprisonment in the county jail not less than ninety days nor more than one year, or both such fine and imprisonment in the discretion of the court: *Provided,* That every drug clerk shall, in addition, be responsible for violating the provisions of this act, for his personal act or negligence or violation, subject to the same penalty as proprietors or employers.

When new bond to be required, etc.

Proviso.

Penalty for violation of provisions of this section.

Proviso.

SEC. 4. Every person engaged in, or intending to engage in any

Sworn statement of persons proposing to engage in sale of liquors, etc.

business named in section one of this act, and requiring the payment of any tax mentioned in said section one, shall, on or before the first day of May in each year, make and file with the county treasurer, in the county where it is proposed to carry on such business, a statement in writing and on oath, showing the name and residence of such person, the ward, village or township and the place or building in which it is proposed to carry on such sale, or manufacture, and the nature of the business which such person is engaged in or is intending to engage in; and shall, on or before the first day in May in each year, pay to the said county treasurer, in advance, the taxes required by said section one for such business for the year commencing on said first day of May and ending on the thirtieth day of April next thereafter.

When tax to be paid.

Pro rata portion of tax, when to be paid, etc.

SEC. 5. Every person engaging in any business specified in section one of this act after the first day in May in each year shall before commencing such business, make and file the like statement on oath, as is provided for in section four of this act, and pay in advance to said county treasurer a *pro rata* portion of the yearly tax on such business, as provided in section one of this act for the remainder of the year ending on the thirtieth day of April next ensuing; and in computing the time of such fractional part of a year for which a tax is required, the same shall commence on the first day of that month in which said business shall commence. But no tax shall be less than one-half of the yearly tax.

Treasurer to give a receipt, etc.

SEC. 6. On receiving the tax provided for in this act, together with the bond in cases where a bond is required, the county treasurer shall give receipt for the money so paid, to the person or persons of whom the same shall be received, in which receipt the name of the person or persons paying the tax shall be stated, and there shall be specified therein the amount of the tax and the time for which it was paid, the city, village or township, and the place or building in which the business is to be conducted, and the kind of business for or on account of which the tax was paid; and he shall also deliver to such person or persons a notice printed on full size printer's card board, and in as large letters as practicable, which notice shall contain a statement of what tax has been paid by the holder of said notice and the penalty for violation of the provisions of this act, and that complaint for such violation

Notice of payment, etc.

Notice and tax receipt must be displayed in conspicuous place, etc.

may be made to any justice of the peace or police justice. Before commencing or doing any business for the time for which such tax is paid, and the receipt is given, the said notice and receipt shall be posted up and at all times displayed in a conspicuous and easily accessible place in the room or place where the business for or on account of which the tax was paid, is carried on. And it shall be the duty of the Auditor General to prepare printed blank receipts and notices conforming to the provisions of this act, and to furnish the same in proper quantities to the several county treasurers of the State, and no county treasurer shall issue any such receipt or notice until the tax specified herein shall have been paid in full in money.

Auditor General to furnish blank receipts and notices.

SEC. 7. If any person or persons shall in any manner violate

any of the provisions of this act such person or persons shall be deemed guilty of a misdemeanor, and, upon conviction thereof, if there is no specific penalty provided therefor by this act, shall be punished by a fine of not less than fifty dollars nor more than two hundred dollars and costs of prosecution, or by imprisonment in the county jail not less than ten days nor more than ninety days, or both such fine and imprisonment in the discretion of the court. And in case such fine and costs shall not have been paid at the time such imprisonment expires, the person serving out such sentence shall be further detained in jail until such fine and costs shall have been fully paid: *Provided*, That in no case shall the whole term of imprisonment exceed six months. Each violation of any of the provisions of this act shall be construed to constitute a separate and complete offense, and for each violation on the same day, or on different days, the person or persons offending shall be liable to the penalties herein provided.

Violation of this act a misdemeanor, etc.

Penalty.

Proviso.

Each violation an offense.

SEC. 8. All persons engaged in or intending to engage in the sale of any spirituous, or intoxicating, malt, brewed, fermented or vinous liquors, except druggists, shall, before commencing such business, and on or before the first day of May, in each and every year thereafter, make, execute and deliver to the county treasurer of the county in which he is carrying on such business, a bond, the sufficiency of which shall be determined by the township board of the township, or the board of trustees, or the council or common council of the village or city in which such business is proposed to be carried on, to the people of the State of Michigan, in the sum of not less than four thousand nor more than six thousand dollars, to be determined by such township board, or board of trustees, council or common council of the village or city, with two or more sufficient sureties, who shall be male residents and freeholders of the township, village or city in which such business is proposed to be carried on, neither of whom shall hold any elective or appointive office in any county, city, village or township of this State, excepting that of notary public, and each of whom shall justify in real estate situated in the county in which such business is proposed to be carried on in a sum equal to the amount of the bond over and above all indebtedness, and all exemptions from sale on execution, and all liability on other similar bonds, which bond shall be substantially in the following form:

Bond required of sellers, etc.

Amount of.

Who may be sureties on.

Know all men by these presents, that we..... as principal, and..... and....., as sureties, are held and firmly bound unto the people of the State of Michigan in the sum of.....dollars, to the payment whereof, well and truly to be made, we bind ourselves, our heirs, executors and administrators, jointly and severally, firmly by these presents. Sealed with our seals, and dated this..... day of..... A. D. 18.....

Form of bond.

WHEREAS, The above named principal proposes to carry on the business of.....(and describing the place of business).....at....., in the county of.....

Provisions of.

AND WHEREAS, The said principal has covenanted and agreed, and doth hereby covenant and agree as follows, to wit: That he will not, directly or indirectly, by himself, his clerk, agent or employé, at any time sell, furnish, give, or deliver any spirituous, intoxicating, malt, brewed, fermented or vinous liquor, any mixed liquor, or any mixture or compound, a part of which is spirituous, intoxicating, malt, brewed, fermented, or vinous liquor to a minor, nor to any adult person whatever, who is at the time intoxicated, nor to any person in the habit of getting intoxicated, nor to any Indian, nor to any person when forbidden in writing so to do by the husband, wife, parent, child, guardian, or employer of such person, or by the supervisor of the township, mayor of the city, or director of the poor, or any supervisor or alderman of the city or president or trustee of any village, or superintendent of the poor of the county in which such person shall reside or temporarily remain, and that he will pay all damages, actual and exemplary, that may be adjudged to any person or persons for injuries inflicted upon him or them, either in person or property, or means of support or otherwise, by reason of his selling, furnishing, giving, or delivering any such liquors. Now, the condition of this obligation is such that if said principal shall well and truly keep and perform all and singular the foregoing covenants and agreements, and shall pay any judgment for actual or exemplary damages which may be recovered against him in any court of competent jurisdiction and all fines and costs that may be imposed upon him for violations of this act, then this obligation shall be void and of no effect, otherwise the same shall be and remain in full force and effect.

Signed and sealed in the presence of

----- [L. S.]
----- [L. S.]
----- [L. S.]

Affidavit of
sureties, con-
tents, etc.

There shall also be annexed to each bond required by this act an affidavit of each surety thereto, which affidavit shall state that the affiant is a male resident and freeholder of the township, village or city in which such bond is offered, and that he does not hold any elective or appointive office in any county, city, village or township of this State, except that of notary public, and that he is worth in real estate, situated within the county in which such business is proposed to be carried on, a sum equal to the amount of the bond over and above all indebtedness and exemptions from sale on executions and all liabilities on other similar bonds, and if, in the judgment of the township board or the board of trustees, the council or common council of the village or city in which said business is proposed to be carried on, said sureties, or either of them, are not worth the full sum mentioned in said bond over and above all their liabilities and exemptions, and liabilities on other similar bonds, the said township board or board of trustees, the council or common council of the village or city, .

as the case may be, shall refuse to endorse said bond with their approval. Such bond shall not be received by the county treasurer unless the approval thereof by the township board or the board of trustees, the council or common council of the village or city shall be duly certified thereon in writing by the clerk or recording officer of such township, village or city, and the principal shall not be allowed to sell spirituous, intoxicating, malt, brewed, fermented or vinous liquors in any other building or place than that specified in said bond without giving notice and executing another bond in the manner above prescribed. A new bond shall be required by the county treasurer with whom such bond was originally filed in case of the death, insolvency or removal of either of the sureties: *Provided, however,* That no new bond shall be required by the county treasurer of any person or persons who have filed a bond under the provisions of this section until it shall be made to appear to said county treasurer, upon summary hearing, that either of the sureties upon such bond has died, removed or become insolvent. And such hearing shall not be had until after at least five days' notice, stating the time and place of such hearing, shall have been given in writing by said county treasurer to the principal or principals on such bond, by leaving the same with him or some person in charge of his place of business. And it shall not be lawful for any person to sell any of the liquors mentioned in section one of this act, after being notified by the county treasurer to procure a new bond, until said bond shall have been executed, approved by the proper authority, and filed with the county treasurer; and any sale made in violation of this section shall be a misdemeanor, and shall be punished as provided in section seven of this act; and in all actions brought upon said bond for damages by reason of the violation of any of the provisions thereof, the plaintiff in such action shall in the event of recovering a judgment of any amount, also recover his costs of suit. The notice herein provided for shall be served and returned by any officer of the county authorized by law to serve writs issued out of a court of record, who shall receive from the county for such services the same fees as are allowed by law for the service of original writs from the circuit court.

Approval of bond must be certified thereon, etc.

When new bond required.

Proviso.

Not lawful to sell after notice that new bond is required, etc.

Who to serve such notice.

Disposition of money collected under this act.

SEC. 9. One-half of all moneys paid to any county treasurer under the provisions of this act, after deducting his fees as herein provided, shall be by him placed to the credit of the township, village or city from which the same was collected, and shall be by such county treasurer paid over on demand, to the treasurer of such township, village or city, to be applied as other general funds. The remainder of all moneys so received by any county treasurer shall be by him placed to the credit of the general fund of the county. The county treasurer shall receive and retain one per cent on all moneys paid to him, as a recompense in full for all his services rendered under the provisions of this act: *Provided,* That in all counties in the Upper Peninsula all of the moneys paid to any county treasurer under the provisions of this act shall, after deducting his fees as aforesaid, be by him placed to the credit of

Proviso relating to Upper Peninsula.

the township, village or city from which the same was collected, and shall be by such county treasurer paid over on demand to the treasurer of such township, village or city, to be applied as other general funds.

Duty of treasurer, sheriff, etc., to notify prosecuting attorney.

Duty of prosecuting attorney.

SEC. 10. It shall be the duty of every county treasurer, sheriff, deputy-sheriff, marshal, police officer or other person having notice or knowledge of any violation of the provisions of this act, to immediately notify the prosecuting attorney of the county thereof, and it shall be the duty of such prosecuting attorney, when complaint on oath is made, forthwith to prosecute every person violating any of the provisions of this act, and for each and every violation thereof.

County treasurer to make report of persons paying tax, etc.

SEC. 11. It shall be the duty of each and every county treasurer, at the end of each and every month, to make a full and complete report, under oath, containing the name of each and every person in his county paying a tax during said month, under the provisions of this act, stating therein the residence of such person, the nature of the business in which such persons are engaged, the place of doing business, the amount of tax paid and the date of payment of the same, and file such statement with the clerk of his county; and such county treasurer shall also, on the first Monday of December, in each year, make a full and complete report of all the facts, as shown by such reports, and return the same to the Auditor General, and publish the same in some newspaper published in his county, if there be one, and in two if there be two. The expense of such publication shall be paid out of the contingent fund of the county. All blanks required to carry into effect the provisions of this act shall be prepared and furnished annually by the Auditor General to the county treasurers, and by them to the township, village and city officers.

Penalty for neglect of duty by officers, etc.

SEC. 12. In case any assessor, county treasurer, prosecuting attorney or other officer whose duty it is to see that the provisions of this act are faithfully enforced, shall willfully neglect or refuse to perform his duty under the provisions of this act, he shall be liable to a penalty of one hundred dollars for each and every offense, and the Governor may, in case of such neglect or refusal, after summary hearing and determination thereon and deciding the same to have occurred, appoint some other person to perform the duties of such officer prescribed by this act, who shall, upon being so appointed, have like powers and duties, and receive the same fees, under this act, as such assessor, treasurer, prosecuting attorney, or other officer, as the case may be; and in the case of the appointment of any person in place of the prosecuting attorney, to prosecute for violation of this act, in any county, the board of supervisors shall allow and pay to such prosecutor a reasonable compensation for all services performed and reimburse him for all expenses incurred by him as such prosecutor, which sum so paid shall be deducted from the salary of the prosecuting attorney so neglecting or refusing to perform his said duty.

Governor may appoint other person to perform duties.

SEC. 13. It shall not be lawful for any person except a drug-

gist, who shall be governed by section three of this act, to sell, furnish to, or give any of the liquors mentioned in this act, to any minor, to any intoxicated person, nor to any person in the habit of getting intoxicated, nor to any Indian, nor to any person when forbidden in writing so to do by the husband, wife, parent, child, guardian or employer of such person, or by the supervisor of the township, mayor, director of the poor, or any supervisor or alderman of the city, president or trustee of any village, or the superintendent of the poor of the county where such person shall reside or temporarily remain. The fact of selling, giving, or furnishing any [liquids] liquors in any place where intoxicating liquors are sold, or kept for sale, to any minor, or to any intoxicated person, or to any person in the habit of getting intoxicated, or to any Indian, or to any person whose husband, wife, parent, child, guardian, employer, or the supervisor of the township, mayor, director of the poor, or any supervisor or alderman of the city, president or trustee of any village, [or] superintendent of the poor of the county where such person shall reside or temporarily remain, shall have forbidden in writing the selling, furnishing, or giving of the same, shall be a *prima facie* evidence of the violation of the law on the part of the person so selling, giving or furnishing such liquor.

Unlawful to furnish liquor, etc., to minor, etc.

The fact of selling, etc., evidence of violation of law.

SEC. 14. It shall not be lawful for any person by himself, his clerk or agent, to permit any student in attendance at any public or private institution of learning in this State, or any minor, to play at cards, dice, billiards or any game of chance, in any part of any building in which spirituous liquors or intoxicating drinks are sold; nor shall it be lawful for any person, by himself, his clerk or agent, to sell or give to any student in attendance at any public or private institution of learning in this State any spirituous or intoxicating drinks, except when prescribed by a regular physician for medicinal purposes; it shall not be lawful for any person to allow any minor to visit or remain in any room where such liquors are sold or kept for sale unless accompanied by his or her father or other legal guardian. Any person who shall offend against either of the foregoing provisions of this section shall be deemed to have been guilty of a misdemeanor, and on conviction thereof shall be punished as provided in section seven of this act.

Unlawful to permit certain persons to play at certain games, etc., where liquors are sold.

SEC. 15. It shall not be lawful for any person to sell, offer to sell, furnish, give, or have in his possession any of the liquors mentioned in this act, in any concert hall, variety show, theater, or other place of amusement, nor in any rooms in any building opening into the place where any such concert hall, variety show, theater, or other place of amusement may be.

Unlawful to sell, etc., in any concert hall, theater, etc.

SEC. 16. All saloons, restaurants, bars, in taverns or elsewhere, and all other places, except drug stores, where any of the liquors mentioned in this act are sold, or kept for sale, either at wholesale or retail, shall be closed on the first day of the week, commonly called Sunday, on all election days, on all legal holidays, and until seven o'clock of the following morning, and on each

What days and hours saloons, etc., shall be closed.

Proviso.

week day night from and after the hour of nine o'clock until seven o'clock of the morning of the succeeding day: *Provided*, That in all cities and incorporated villages, the common council or board of trustees, or council, may, by ordinance, allow the saloons and other places where said liquors shall be sold to remain open not later than eleven o'clock in the afternoon and no longer of any week day night, except on election days and holidays. The word "closed" in this section shall be construed to apply to the back door or other entrance as well as the front door. And in prosecutions under this section it shall not be

What is meant by the word "closed."

Proviso.

necessary to prove that any liquor was sold: *Provided*, The fact that the door of any saloon, restaurant or bar is opened at any time when by the provisions of this act such saloon, restaurant or bar is required to be closed, shall be *prima facie* evidence of a violation of the provisions of this act.

Duty of justice of the peace, etc., on complaint being made.

SEC. 17. Whenever complaint shall be made by any person on oath, before any justice of the peace or other officer or magistrate having jurisdiction, that any person is found intoxicated or has been intoxicated in any hotel, store, public building, street, alley, highway, or other public place, it shall be the duty of such justice, municipal or police court to issue a subpoena to compel the attendance of such person so found intoxicated, or who has been intoxicated as aforesaid, to appear before the justice or other court issuing the same, to testify in regard to the person or persons of whom, and the time when, and the place where, and the manner in which the liquor producing his intoxication was procured, and if such person, when subpoenaed, shall neglect or refuse to obey such writ, the said justice or court who issued the same shall have the same power and authority to compel the attendance of the person so subpoenaed and to enforce obedience to such writ as in other cases. Whenever the person so subpoenaed shall appear before the justice, municipal or police court, to testify as aforesaid, he shall be required to answer on oath the following questions, to-wit: When, where

Subpoena of persons intoxicated, etc.

Questions to be asked persons so subpoenaed, etc. In case of refusal to answer, etc.

and of whom did you procure, obtain, or receive the liquor or beverage, the drinking or using of which has contributed to the cause of [the] intoxication mentioned in the complaint. And if such person shall refuse to answer fully and fairly such questions on oath, he shall be punished and dealt with in the same manner as for a contempt of court in other cases. If it shall appear from the testimony of such person that any of the offenses specified in this act have been committed, such justice or court, before whom such testimony is given, shall make a true record of the same and cause it to be subscribed by such witness; and the said testimony or answers, when subscribed as aforesaid, shall be deemed and taken to be sufficient complaint to authorize the issuing of a warrant to arrest any person or persons who may appear from said complaint to be guilty of having violated any of the provisions of this act. Any person arrested on a warrant issued pursuant to the provisions of this section shall be brought before the justice or other court issuing the same, and all subsequent [proceedings]

When justice or court to make record of testimony, etc.

Persons arrested, where brought, etc.

proceedings in such suit or prosecution shall be governed by and subject to the provisions of this act and the rules of law applicable hereto: *Provided*, That the person so testifying under the provisions of this section shall not be held or prosecuted for the intoxication concerning which such testimony shall be given: *Provided* further, That nothing herein contained shall be so construed as to prevent prosecuting persons for becoming drunk or intoxicated when the testimony of said person is not sought under the provisions of this section.

SEC. 18. Every person who shall by himself, or by his clerk, agent or employé, sell, give or furnish, or cause to be sold, given, or furnished, any of the liquors mentioned in this act, to any minor, and every person who shall himself, or by his clerk, agent, or employé, permit or allow any such liquor or beverage to be sold, furnished or given to, or to be drank by any such minor, in his or her residence, store, shop, saloon, restaurant, bar-room or place of business where such liquors or beverages are kept, furnished or sold, shall, in addition to all other penalties provided herefor by this act, be liable for both actual and exemplary damages therefor, to the father, mother, guardian or master, or any person standing in place of a parent to such minor, in such amount as the court or jury shall determine, but not less than fifty dollars; but druggists having a permit who furnish any of the liquors aforesaid to a minor or minors, upon the written request of a parent, guardian, or master of such minor, or upon the written prescription and request of a regular practicing physician, shall be exempt from the provisions of this section: *Provided*, That the physician making such prescription shall not be the druggist himself nor a member of the firm of druggists selling such liquors, nor an employé of such druggist or firm. But if any druggist shall furnish, sell or give to any such minor any such liquor more than once upon the same written prescription or written request, he shall be liable in damages as aforesaid, and to the extent aforesaid in each case.

SEC. 19. Every wife, child, parent, guardian, husband, or other person, who shall be injured in person or property, or means of support or otherwise, by any intoxicated person or by reason of the intoxication of any person, or by reason of the selling, giving or furnishing any spirituous, intoxicating, malt, brewed, fermented, or vinous liquors, to any person, shall have a right of action in his or her own name, against any person or persons who shall, by selling or giving any such liquor, have caused or contributed to the intoxication of such person or persons, or who have caused or contributed to such injury; and the principal and sureties to the bond hereinbefore mentioned, shall be liable severally and jointly with the person or persons so selling, giving, or furnishing any such liquor, as aforesaid, and in any action provided for in this section, the plaintiff shall have a right to recover actual and exemplary damages. In case of the death of either party the action and right of action given by this section shall survive to or against his executor or administrator, as the case may be.

Proviso.

Further proviso.

Persons selling, etc., liquors to minors, liable for exemplary damages, etc.

Who entitled to, etc.

When druggists exempt from.

Proviso.

Who may have right of action, etc., for injury to person or property, etc.

In case of death of either party, etc.

in every action by any wife, husband, parent, or child, general reputation of the relation of husband and wife, parent and child, shall be *prima facie* evidence of such relation, and the amount recovered by every wife or child shall be his or her sole and separate property.

Damages, how recoverable, etc.

SEC. 20. The damage in all cases provided for in this act, together with costs of suit, shall be recoverable in action of trespass on the case before any court of competent jurisdiction. And in any case where parents shall be entitled to such damages either the father or the mother may sue alone therefor. But recovery by one of said parties shall be a bar to a suit brought by the other.

Duty of marshal, etc., to visit places where liquor is sold, once in every week, etc.

SEC. 21. It shall be the duty of the village and city marshals, and, in cities having no marshal, of the chief of police, or some subordinate appointed by such chief, to visit, at least once in each week, all places within their respective jurisdictions where any of said liquors are sold, or kept for sale, or reputed to be sold or kept for sale, to learn if any of the provisions of this act have been or are being violated, and whenever any of the officers above mentioned shall learn of a violation of any of the provisions of this act, it shall be his duty to enter complaint before some justice of the peace of the proper township or city, or police justice, as the case may be, and to do whatever shall be necessary to bring the offender to justice.

Security for costs not required when complaint is made, etc.

SEC. 22. Whenever complaint shall be made to any justice of the peace, or police justice, of any violation of any of the provisions of this act, he shall not require security for costs to be given, but shall take the complaint and examination of the witnesses as in other cases, and if the offense appears to have been committed, he shall issue his warrant for the arrest of the offender, and shall notify the prosecuting attorney, whose duty it shall be to appear and prosecute the cause.

Clubs, societies, etc., selling, etc., liable to provisions of this law, etc.

SEC. 23. Every incorporated social club or society which sells, distributes, gives, or keeps for sale, distribution or gift to its members or any of them, any of the liquors mentioned in this act, and the members of every unincorporated club or society which sells distributes, gives, or keeps for sale, distribution or gift to its members, or any of them, any of such liquors, shall be liable for the payment of the tax prescribed by this act, in like manner as individuals engaged in the business of selling such liquors, and at all times when, by the provisions of law, saloons and bars shall be closed, the bar, room and rooms, in which such club or society keeps or distributes any of the said liquors shall be closed and kept closed, and any member of said club or society violating any of the provisions of this section, shall be liable for the full penalty prescribed in section seven of this act; and any person engaged in the business of selling or keeping for sale any of the liquors mentioned in this act, whether as owner, member of an organization, clerk, agent, or employé, shall be equally liable as principal, and may be so charged, for any violation of any of the provisions of this act, and any person, member of an organization, or principal shall be liable for the acts of his clerk, agent or employé for

All persons engaged in selling, etc., equally liable, etc.

any violation of any provision of this act; and any club, society, or organization having a system of distributing liquors among members of a social club or organization in any saloon, club room, yard, garden or apartment, whether the same be paid for by the drink or not, shall be deemed to be engaged in the business of selling such liquor at retail.

SEC. 24. The fact of any person or persons having posted in his or their building or place of business a United States tax receipt for the payment of the United States special tax on the business of manufacturing or selling any of the liquors mentioned in this act shall be presumptive evidence that such person or persons, during the time for which such tax is paid, as thus shown, are engaged in the manufacture or sale of such liquors.

U. S. tax receipt posted in place of business, presumptive evidence, etc.

SEC. 25. If any person shall adulterate any spirituous, intoxicating, malt, brewed, fermented or vinous liquor used or intended for drink, by mixing the same in the manufacture or preparation thereof, or by process of rectifying, or otherwise, with any deleterious drug, substance, or liquid, which is poisonous or injurious to health, except as hereinafter provided, or if any person shall sell, or offer to sell, any such liquor, or shall import into this State, and sell or offer for sale such liquor, knowing the same to be adulterated, or shall sell or offer to sell any spirituous, intoxicating, malt, brewed, fermented or vinous liquor, from any barrel, cask or other vessel containing the same, and not branded as hereinafter provided, he shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine not exceeding five hundred dollars, nor less than fifty dollars, or imprisonment in the jail of the county not more than six months nor less than ten days, or both, in the discretion of the court.

Adulteration of liquor a misdemeanor, etc.

Sale of adulterated liquors a misdemeanor.

Penalty.

SEC. 26. It shall be the duty of any person engaged in the manufacture and sale of spirituous, intoxicating, malt, brewed, fermented or vinous liquor, or in rectifying or preparing the same in any way, to brand on each barrel, cask, or other vessel containing the same, the name or names of the person, company, or firm manufacturing, rectifying or preparing the same, and also these words, "Pure and without drugs or poisons."

What to be branded on barrel, etc.

SEC. 27. No person shall sell at wholesale or retail any ale, rum, wine or other malt or spirituous or intoxicating liquors from any barrel, cask or vessel, unless the same shall have been branded and marked as aforesaid.

Sale of, from barrel, etc., not branded, unlawful.

SEC. 28. If any barrel, cask or other vessel containing any drugged or poisoned liquor shall be found in the possession of any wholesale or retail dealer in liquors, or in the possession of any person holding himself out as such a dealer, it shall be deemed *prima facie* evidence of the violation of the provisions of this act.

Possession of barrel, etc., containing drugged liquor evidence, etc.

SEC. 29. Any person who shall put into any barrel, cask, or other vessel, any liquors drugged or adulterated as aforesaid, or who shall sell or offer for sale any such liquors, for the purpose and with the intent of deceiving any person in the sale thereof, or shall violate any of the provisions of sections twenty-six, twenty-seven or twenty-eight, shall be deemed guilty of a misde-

Putting drugged liquor, etc., into barrel, etc., a misdemeanor.

meanor, and upon conviction thereof shall be punished as provided in section twenty-five of this act.

Druggists may compound, etc.

SEC. 30. The provisions of this act shall not be so construed as to prevent druggists and physicians from compounding liquors for [medical] medicinal purposes.

When screens, etc., to be removed.

SEC. 31. During the time when, by the provisions of this act, places where liquor is sold or kept for sale must be closed, all curtains, screens, partitions and other things that obstruct the view from the sidewalk, street, alley or road in front of or at the side or end of said building, or the bar or place in said room where said liquors are sold or kept for sale, shall be removed.

Penalty.

Any person who shall violate any of the provisions of this section, shall, upon conviction thereof, be punished as provided in section seven of this act.

Certain acts repealed.

SEC. 32. All acts or parts of acts in any way contravening or inconsistent with any of the provisions of this act are hereby repealed: *Provided, however,* That all suits or actions pending under any law in force at the date this act takes effect, whether on behalf of the people of this State or of any person or persons, may be prosecuted to final judgment, and such judgment enforced in like manner and with the same effect as though this act were not passed; and all rights of action accrued to said people or any person or persons under any existing law are hereby preserved and saved, and excepted from the operation and effect of this act, and the same may be prosecuted, sued for and recovered in like manner and to the same extent as might be

Further proviso.

done if this act were not passed: *And provided further,* That this act shall not be operative except as to druggists in any county in this State in which the manufacture and sale of the liquors mentioned in this act may in any manner be prohibited while such prohibition is in force.

Approved June 28, 1889.

DOG TAX.

[Sections 2123 to 2128 Howell's Annotated Statutes, and sections added by Act No. 214, Laws of 1899.]

AN ACT to provide for a tax upon dogs, and to create a fund for the payment of certain damages for sheep killed or wounded by them in certain cases.

(2123.) **SECTION 1.** *The People of the State of Michigan enact,* Amount of tax upon dogs. That in all the townships and wards of the cities of this State, there shall be annually levied and collected the following tax upon dogs: Upon every male dog over six months old owned or kept by any one person or family, one dollar; upon every female dog owned or kept by one person or family, three dollars.

(2124.) **SEC. 2.** The assessor of every township or ward, at the time of making his annual assessment, shall inquire and ascertain the number of dogs liable to be taxed, and shall enter in lists to be made by him the name of every person in his respective township or ward owning or keeping any dog subject to the above tax, the number kept by such person and the amount of tax to be paid by him. Assessor to ascertain number of dogs, and make list of owners.

(2125.) **SEC. 3.** The assessor of every township and ward shall, on or before the fifteenth day of May in each year, make out a duplicate of the lists made by him as provided in the preceding section, and file the same with the township or city clerk of his respective township or city; said taxes as provided for in the preceding section of this act, shall be assessed to and collected from such persons as shall be liable for the same in the same manner as other township and city taxes are assessed and collected, and with like power to distrain and sell any property of the owner or owners, keeper or keepers of dogs liable to be taxed. Duplicate list to be deposited with clerk.

(2126.) **SEC. 4.** The collector to whom such tax roll shall be delivered shall proceed and collect the sums of money therein specified in the same manner and with like authority in all respects as in the collection of taxes imposed by the board of supervisors of the county, and shall, after deducting the commission allowed by this act, retain the remainder in the township or city treasury and subject to the orders of the township and city boards, as provided in sections five and six of this act. Assessment and collection of tax.

(2127.) **SEC. 5.** Whenever any person shall sustain a loss by the killing or wounding of his sheep or lambs by a dog or dogs, he may call on a disinterested justice of the peace of the township or city where such killing or wounding occurred, not of kin to such person, and not a member of the township board or city council, who shall proceed to view the sheep or lambs so killed or wounded, and Manner of collecting tax. Amount of tax subject to order of township and city boards. Justice, etc., to view sheep killed by dogs.

Certificate of damages.

if from such view he shall be satisfied that the same were killed or wounded by a dog or dogs, he shall make a certificate thereof in writing, stating the amount of damage sustained by such person, and shall deliver the same to the clerk of said township or city, who shall file the same in his office and record it in the records of the township or city. The said justice shall receive for his services in each case the sum of two dollars, to be paid out of the aforesaid fund, on the order of the township board or proper city officer or officers.

Payment of damages.

(2128.) SEC. 6. At the annual meeting of the township board in each year, and at a meeting of the common council of each city in April of each year, the said board or council, as the case may be, shall examine all certificates of damage filed by the clerk as aforesaid, during the proceeding [preceding] year, and if satisfied that in any case or cases the certified damages are excessive, they may reduce the same to such amount as they may consider just, and may order the payment of all such loss as they may consider just out of the fund aforesaid if it be sufficient for that purpose, and if not sufficient they may order a proportionate payment of each claim. If money remains of such fund after satisfactory payment of all claims aforesaid in any one year, over and above the sum of one hundred dollars, it shall be apportioned among the several school districts of such township or city in proportion to the number of children therein of school age: *Provided*, That no payment of loss shall be made as provided for in this section unless the party applying for the same shall make it appear to the satisfaction of the township board or common council that he has made all due efforts and has not been able to obtain satisfaction therefor from the owner or owners of the dog or dogs which shall have done the damage.

Apportionment of surplus.

Proviso.

Collector's commission.

(2129.) SEC. 7. The collector shall be allowed to retain a commission of four per cent upon all sums collected by them under the provisions of this act, and shall make and deliver a correct statement and account for the amount of money so collected to the township board of their respective townships, and to the city treasurer of cities, at the time of making their annual settlement with said board and treasurers, and shall be holden on their bonds the same as for other moneys collected if not paid over.

Penalty on officer for neglect of duty.

(2130.) SEC. 8. Any township or city officers who shall wilfully neglect or refuse to perform any of the duties imposed upon him by this act, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not less than (\$50) fifty dollars or more than (\$100) one hundred dollars for each offense.

Person possessing dog fifteen days deemed owner.

(2131.) SEC. 9. Every person in possession of any dog, or who shall suffer any dog to remain about his house for the space of (15) fifteen days previous to the assessment of a tax, or previous to any injury, chasing, worrying, or killing of sheep, shall be deemed the owner of such dog for all purposes of this act.

Penalty for keeping sheep-killing dogs.

(2132.) SEC. 10. Any person or persons who shall knowingly keep any dog known to be a sheep-killing dog, or who shall keep

any such dog after it shall come to the knowledge of such person that such dog has been engaged in the killing of sheep, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of not less than ten nor more than fifty dollars, or by imprisonment in the county jail not exceeding three months, or by both such fine and imprisonment in the discretion of the court.

¹SEC. 11. That all moneys collected within any city in this State and any township or part of township next adjoining thereto (the same being within one county) under and by virtue of act number one hundred and ninety-eight of the public acts of eighteen hundred and seventy-seven, approved May twenty-third, eighteen hundred and seventy-seven, as amended by act number two hundred and eighty-three, approved June eleventh, eighteen hundred and eighty-one, shall, less his fees for collection, be paid by the treasurer of any such township or part of township and the treasurer of said city, respectively, to the treasurer of the county wherein the same are situate, within the time county and State taxes are required to be paid over to him, and the moneys so paid to and received by said county treasurer shall be kept by him as a special fund for the payment of any loss or losses that any person may suffer from the killing or wounding of any sheep or lambs by any dog or dogs within any such city or any said township or part of township.

Moneys to constitute a special fund to pay losses, etc.

¹SEC. 12. At the annual meeting of the township board of any such township or part of township in each year, and at a meeting of the common council of any such city in April in each year, the said board, or the said common council, as the case may be, shall examine all certificates of damages made under the provisions of said act one hundred and ninety-eight, as amended, and filed with the township clerk or city clerk, as therein provided, during the preceding year, and if satisfied that in any or all cases the certified damages are excessive, they may reduce the same to such amount as they may consider just, and may order the payment of all such losses as they may consider just out of the fund provided for in the preceding section. The clerk of any such township, or part of township, shall draw an order upon the county treasurer for the amount of the loss so ordered paid by the township board, which order shall be countersigned by the supervisor, and deliver the same to the person holding said certificates. And the clerk of such city shall draw an order upon the county treasurer for the amount of the loss so ordered paid by the common council, which order shall be countersigned by the mayor, and deliver the same to the holder of said certificate or certificates.

Order for payment of losses, etc.

Idem.

¹SEC. 13. The said county treasurer shall, after the first day of May in each year, pay all orders drawn upon him payable from the said fund provided for in section eleven of this act, that may have been filed with him during the month of April prior thereto: *Provided*, There is money enough in said fund to pay all of said orders in full. If there is not enough money in said fund to pay

When county treasurer to pay orders.

Provided.

¹ Added by Act 214, 1889.

In case fund is
insufficient.
Further provisio.

all of said orders in full, the same shall be paid *pro rata*: And if *is further provided*, That no payment of loss shall be made as provided for in this section unless the party applying for the same shall make it appear to the satisfaction of the township board or common council that he has made all due efforts and has not been able to obtain satisfaction therefor from the owner or owners of the dog or dogs which shall have done the damage.

In case of
surplus.

¹SEC. 14. If any money remains in said fund provided for in section eleven of this act, after the payment of the orders payable out of the same, and the amount of said money shall exceed the sum of two hundred dollars, the sum in excess of two hundred dollars shall be apportioned by said county treasurer to the said township or part of township and said city in proportion to the amount contributed to said fund during the preceding year, and the amount so apportioned to any said township or part of township, or said city shall be respectively apportioned among the several school districts of said township or part of township and said city in proportion to the number of children therein of school age.

[Sections 1186, 1187 and 1188 Howell's Annotated Statutes.]

AN ACT authorizing the supervisors of the several towns in the Upper Peninsula to assess and collect [the State] taxes upon all mining companies' real estate, or other property.

Supervisor to
tax property of
mining com-
panies.

(1186.) SECTION 1. *The People of the State of Michigan enact*, That the several supervisors of the different townships in the counties in the Upper Peninsula, be and are hereby authorized and required to assess and collect, in the same manner that taxes are assessed on other property, the State taxes upon all real and personal property belonging to any mining corporation or association formed under the general mining laws of this State, that are not actually carrying on and engaged in the business of mining.

Mining com-
panies to pay
state tax on ex-
cess of real
estate over 640
acres.

(1187.) SEC. 2. All mining corporations organized under the general mining laws of this State, and those organized under special acts of the Legislature, prior to the adoption of the Constitution of this State, or those that may be hereafter organized under the general mining laws, that are actually engaged in carrying on the business of mining, shall pay a State tax upon all their real estate that exceeds in quantity six hundred and forty acres of land; and to entitle any corporation to the exemption from taxation of a quantity of lands, not exceeding six hundred and forty acres, they shall file in the county clerk's office of their respective counties a full and complete description of said land, and accompanying said description with a map and survey of the same. The supervisors of the several townships in which any of said lands belonging to any mining corporation may be located, are hereby authorized and required to assess the State tax on all the lands belonging to such mining corporation, not herein exempt: *Provided*, That nothing

Companies to
file description
of lands with
county clerk.

Duty of super-
visor.

Proviso.

¹ Added by Act 214, 1899.

in this act shall release any mining corporation or association from paying any specific tax now provided by law.

(1188.) SEC. 3. All acts or parts of acts contravening the provisions of this act are hereby repealed. Repeal.

[Sections 1189 to 1193 Howell's Annotated Statutes.]

AN ACT to provide for the taxation of copper for county and township purposes.

(1189.) SECTION 1. *The People of the State of Michigan enact,* That every corporation, partnership, or person engaged in the business of mining or smelting copper, or any person, partnership, or corporation owning or holding such copper in the Upper Peninsula, shall, on or before the first Monday of May in each year, deliver to the supervisor or other assessing officer of each township, village, or city in which such corporation, partnership, or person had, on the twenty-fifth day of April preceding, any copper, whether smelted or unsmelted, in their possession or under their control, a true and correct statement, specifying, Corporations, etc., mining copper to deliver to supervisor a statement; when.

First, The amount in weight of such copper, and whether smelted or unsmelted. What to contain.

Second, Its cash value;

Third, The township in and the premises upon which it is stored;

Fourth, The name and residence of the owner of the same, or if belonging to a corporation, the name and place of business of such corporation.

(1190.) SEC. 2. Such statement shall be verified by the oath of the superintendent or agent of such corporation, or partnership, or of some member thereof, or of said person, or of some person having full knowledge of the facts therein stated; and any person who shall make an affidavit as above required, shall be liable to the penalties of perjury for any false statement made in such affidavit with intent to defraud, upon conviction thereof before a court having jurisdiction of the offense: *Provided,* That such copper shall not be assessed in other townships than as herein provided. How verified.

(1191.) SEC. 3. Every such corporation willfully neglecting or refusing to furnish such statement, shall, if within this State, forfeit its franchises, and if without this State, shall no longer be permitted to do business herein; and the members of such partnership, or such person so neglecting or refusing to make such statement, shall, if within this State, forfeit the sum of three hundred dollars in the nature of a penalty, which shall be sued for and recovered by the prosecuting attorney of the proper county, for the use and benefit of the people of the State of Michigan, as provided by chapter two hundred and sixteen of the compiled laws of eighteen hundred and seventy-one, and if such partnership or person shall be without the State, then the superintendent or agent of such partnership or person, and managing said business, shall Penalty for false statement.
Penalty for neglect to make statement.
Proviso.
Forfeiture for neglect to make statement.

in like manner forfeit said sum of three hundred dollars, to be collected in like manner as above provided.

Supervisor on receiving such statement.

(1192.) SEC. 4. Every supervisor, or other assessing officer, upon receiving any such statement from which it shall appear that there was in his township, village or city on said twenty-fifth day of April, any copper, whether smelted or unsmelted, belonging to any resident of or corporation having its office in this State, shall at once transmit to the supervisor of the township in which such owner resides, or such corporation has its office, a certified copy of that portion of the said statement relating to such copper.

Copper to be assessed as other property.

(1193.) SEC. 5. Every supervisor or other assessing officer shall estimate and assess upon his assessment roll all copper belonging to residents of his township, or non-residents of the State, in the same manner and for the same purposes that other personal property is assessed.

[Section 1185 Howell's Annotated Statutes.]

AN ACT to provide for taxing the property of Masonic and Odd Fellows' Lodges, and other benevolent societies.

Taxation authorized.

(1185.) SECTION 1. *The People of the State of Michigan enact,* That any Masonic or Odd Fellows' Lodge, or other benevolent society or order, incorporated under the laws of this State, owning, occupying, or controlling any temple, hall, or other property, such property shall be subject to taxation, in like manner as the same kind of property owned by individuals or companies is taxed : *Provided,* That any hall or rooms occupied by such corporation for their own use exclusively shall be exempt from taxation.

Proviso.

AN ACT to prevent the spreading of Canada Thistles in the State of Michigan, being sections 2233 to 2239, Howell's Annotated Statutes.

Owners or occupants to cut down thistles.

(2233.) SECTION 1. *The People of the State of Michigan enact,* That it shall be the duty of every owner, possessor or occupier of land, to cut or cause to be cut down, all the Canada thistles growing thereon, or on the highway passing by or through the same, so often in each and every year as shall be sufficient to prevent them going to seed ; and if any owner, possessor, or occupier of land shall knowingly suffer any such Canada thistles to grow thereon, and the seed to ripen so as to cause or endanger the spread thereof, he shall, on conviction, be liable to a fine of ten dollars for every such offense.

Penalty for suffering them to grow.

Duties of overseers or commissioners of highways.

(2234.) SEC. 2. It shall be the duty of the overseer of highways in any township to see that the provisions of this act shall be carried out within their respective highway districts ; and they shall give notice to the owner, possessor, or occupier of any land within said district, whereon Canada thistles shall be growing and in danger of going to seed, requiring him to cause the same to be cut

down within five days from the service of such notice; and in case such owner, possessor, or occupier shall refuse or neglect to cut down the said Canada thistles, the overseer of highways shall enter upon the land and cause all such Canada thistles to be cut down, with as little damage to growing crops as may be, and he shall not be liable to be sued in any action of trespass therefor: *Provided*, That when such Canada thistles are growing upon non-resident lands, it shall not be necessary to give notice before proceeding to cut down the same. Proviso.

(2235.) SEC. 3. Each overseer of highways shall keep an accurate account of the expenses incurred by him in carrying out the provisions of the preceding section of this act, with respect to each parcel of land entered upon therefor, and shall offer a statement of such expense, describing, by its legal description, the land entered upon, and verified by oath, to the owner, possessor, or occupier of such resident lands, requiring him to pay the amount. In case such owner, possessor, or occupier shall refuse or neglect to pay the same within thirty days after such application, said claim shall be presented to the township board of the township in which such expense was incurred, and said township board is hereby authorized and required to audit and allow such claim, and order the same to be paid from the fund for general township purposes of said township, out of any moneys in the township treasury not otherwise appropriated; the said overseer of highways shall also present to the said township board a similar statement of the expense incurred by him in carrying out the provisions of said section upon any non-resident land, and the said township board is hereby authorized and required to audit and allow the same in like manner. Expenses incurred; account of, to be kept.

(2236.) SEC. 4. The supervisor of the township shall cause all such expenditures as have been so paid from the township treasury, under the provisions of this act, to be severally levied on the lands so described in the statement of the overseer of highways, and to be collected in the same manner as delinquent highway taxes are collected; and the same, when collected, shall be paid into the township treasury to reimburse the outlay therefrom aforesaid. Allowance of.

(2237.) SEC. 5. Any person who shall knowingly vend any grass or other seed among which there is any seed of the Canada thistle, shall, for every such offense, upon conviction, be liable to a fine of twenty dollars. Expenses incurred on non-resident lands.

(2238.) SEC. 6. It shall be the duty of the prosecuting attorney of the county to prosecute all violations of the provisions of this act which shall come to his knowledge. Expenses paid to be levied on lands.

(2239.) SEC. 7. Every overseer of highways who shall refuse or neglect to discharge the duties imposed on him by the provisions of this act shall be liable to a fine of twenty-five dollars; *Provided*, That the provisions of this act shall be published in pamphlet form and ten copies thereof forwarded to the supervisor of each township in this State. Penalty for selling seed among which there is seed of the thistle.

Duty of prosecuting attorney.

Penalty for neglect of duty by overseer or commissioner.

Proviso.

SURVEY TAX.

[See Section 624, Howell's Annotated Statutes.]

EXEMPTION OF LANDS ENTERED WITH WARRANTS ISSUED FOR SERVICES IN THE WAR OF 1812.

[See page 88, Howell's Annotated Statutes.]

* * * Bounty lands granted, or hereafter to be granted, for military services during the late war, shall, while they continue to be held by the patentees or their heirs, remain exempt from any tax laid by order or under the authority of the State, whether for State, county, township, or any other purpose, for the term of three years from and after the date of the patents respectively. * *

EXEMPTION OF SHARES IN AND SECURITIES HELD BY BUILDING AND LOAN ASSOCIATIONS.

[Act No. 124, Laws of 1889.]

AN ACT to amend Act number fifty of the public acts of eighteen hundred and eighty-seven, entitled "An Act to provide for the incorporation and regulation of certain corporations, generally known as Building and Loan Associations," by adding one new section thereto to be known as section seventeen.

SECTION 1. *The People of the State of Michigan, enact, That* Act number fifty of the public acts of eighteen hundred and eighty-seven, entitled, "An Act to provide for the incorporation and regulation of certain corporations generally known as Building and Loan Associations," be, and the same is hereby amended by adding one new section thereto, to be known as section seventeen, and to read as follows:

SEC. 17. The shares held by any member of any such association incorporated under the provisions of this act, and all mortgages or other securities held by such associations, shall be exempted from all municipal or other tax under the laws of this State.

This act is ordered to take immediate effect.

Approved May 31, 1889.

[Section 3360, Howell's Annotated Statutes.]

AN ACT to revise the laws providing for the incorporation of railroad companies, and to regulate the running and management, and to fix the duties and liabilities of all railroad and other corporations owning or operating any railroad in this State.

* * * * *

ARTICLE III.

(3360.) SEC. 3. Every company formed under the provisions of this act shall, on or before the first day of July in each year, pay to the State Treasurer, on the statement of the Auditor General, an annual tax upon the gross receipts of said company, computed in the following manner, viz.: Upon all gross receipts not exceeding four thousand dollars in amount per mile of road actually and regularly operated for the conveyance of passengers and freight, two per cent of such gross earnings; upon such gross receipts in excess of four thousand dollars per mile so operated, three per cent thereof; which amount or tax shall be in lieu of all other taxes upon the property of such companies, except such real estate as is owned and can be conveyed by such corporation under the laws of this State and not actually occupied in the exercise of its franchises, and not necessary or in use in the proper operation of its road; but such real estate so excepted shall be liable to taxation in the same manner, for the same purposes, and to the same extent, and subject to the same conditions and limitations as to assessment for taxation, to taxation, and to the collection and return of taxes thereon, as is other real estate in the several townships within which the same may be situated.

* * * * *

Pay specific tax.
In lieu of other taxes.

Exception.
Real estate excepted, liable to taxation same as other real estate.

INJUNCTION TO RESTRAIN WASTE.

[Act No. 223, 1899.]

AN ACT to authorize the issuance of injunctions to restrain waste upon certain lands when the taxes upon the same shall be due and unpaid.

SECTION 1. *The People of the State of Michigan enact.* That when any person, company, or corporation shall neglect or refuse to pay any tax assessed on the lands of such person, company or corporation within the time specified by law, the township treasurer shall be entitled to an injunction to restrain waste on any of such lands upon which the taxes shall remain unpaid when

it shall appear that such lands are chiefly valuable for the timber being, standing or growing thereon, and any circuit judge or circuit court commissioner of the county in which such lands are situated, may, on the application of such township treasurer, make an order restraining any person from committing waste thereon.

This act is ordered to take immediate effect.

Approved July 1, 1889.

[Sections 1206 and 1207, Howell's Annotated Statutes.]

AN ACT regarding the payment of irregular or illegal taxes.

If payment of tax not protested.

(1206) SECTION 1. *The People of the State of Michigan enact,* That in all cases where any person, company, association, or corporation shall voluntarily and without protest pay to the officer demanding the same, and having a tax warrant or other process for the collection thereof, any sum or sums of money purporting by such warrant or process to be payable by such person, company, association, or corporation for taxes or assessments, assessed, levied, or imposed by virtue of any law of this State, neither the officer so collecting the same, nor the officer who issued such warrant or process, nor the officer who made the assessment or levy, shall in consequence of such payment be liable in any form of action for or on account of any defect or invalidity in the law under which the proceedings are had, or of any defect or irregularities in the said proceedings, or in such warrant or process.

Officer collecting under warrant, nor officer issuing warrant, nor officer who made assessment to be liable in any form of action.

Collectors to pay over moneys so received.

(1207.) SEC. 2. That whenever moneys shall have been thus voluntarily paid as taxes or assessments to any officer assuming to act under any law of this State, and he shall fail to pay the same over according to the requirements of such law, or of his warrant or other process, any defect, irregularity, or illegality in the proceedings, or any want of authority to assess or levy such taxes or assessment, shall not be set up as a defense to any suit or proceeding brought or instituted to compel such payment by him, or to hold him or his sureties responsible for his neglect to make the same, but he shall make payment the same as if no such defect, irregularity, illegality, or want of authority had occurred or existed.

Defect in warrant or assessment no defense to pay over.

Sureties responsible for neglect to pay over.

[Sections 423 to 430, Howell's Annotated Statutes.]

AN ACT to provide for the safe keeping of public moneys.

"Public moneys" defined.

(423.) SECTION 1. *The People of the State of Michigan enact,* That all moneys which shall come into the hands of any officer of the State, or of any officer of any county, or of any township, school district, highway district, city or village, or of any other municipal or public corporation within this State, pursuant to any provision of law authorizing such officer to receive the same, shall be denominated public moneys within the meaning of this act.

(424.) SEC. 2. It shall be the duty of every officer charged with the receiving, keeping or disbursing of public moneys to keep the same separate and apart from his own money, and he shall not commingle the same with his own money, nor with the money of any other person, firm, or corporation.

Public moneys to be kept separate from all other funds.

(425.) SEC. 3. No such officer shall, under any pretext, use nor allow to be used, any such moneys for any purpose other than in accordance with the provisions of law; nor shall he use the same for his own private use, nor loan the same to any person, firm or corporation without legal authority so to do.

How used.

(426.) SEC. 4. In all cases where public moneys are authorized to be deposited in any bank, or to be loaned to any individual, firm or corporation, for interest, the interest accruing upon such public moneys shall belong to and constitute a general fund of the State, county, or other public or municipal corporation, as the case may be.

Interest on public moneys to constitute a general fund.

(427.) SEC. 5. In no case shall any such officer, directly or indirectly, receive any pecuniary or valuable consideration as an inducement for the deposit of any public moneys with any particular bank, person, firm or corporation.

Officers not to receive consideration for deposit of money with particular bank, etc.

(428.) SEC. 6. The provisions of this act shall apply to all deputies of such officer or officers, and to all clerks, agents, and servants of such officer or officers.

Provisions of this act to apply to deputies, etc.

(429.) SEC. 7. Any person guilty of a violation of any of the provisions of this act, shall, on conviction thereof, be punished by a fine not exceeding one thousand dollars, or imprisonment in the county jail not exceeding six months, or both such fine and imprisonment in the discretion of the court: *Provided*, That nothing in this act contained shall prevent a prosecution under the general statute for embezzlement in cases where the facts warrant a prosecution under such general statute.

Penalty for violating provisions of this act.

Proviso.

(430.) SEC. 8. Any officer who shall willfully or corruptly draw or issue any warrant, order, or certificate for the payment of money in excess of the amount authorized by law, or for a purpose not authorized by law, shall be deemed guilty of a misdemeanor, and may be punished as provided in the preceding section.

Penalty for illegal payment of money.

[Act No. 106, Laws of 1851, as amended in 1871, being Sections 319 to 327, Howell's Annotated Statutes.]

AN ACT to provide for a State Board of Equalization.

(319.) SECTION 1. *The People of the State of Michigan enact*, That there shall be a State Board of Equalization, to consist of the Lieutenant Governor, Auditor General, Secretary of State, State Treasurer, and Commissioner of the Land Office, whose duty it shall be, in the year eighteen hundred and fifty-one, and every fifth year thereafter, to equalize the assessments on all taxable property in the State, except that paying specific taxes, as hereinafter provided.

Who to compose State Board of Equalization.

Their duty.

When to meet
at Capitol.

Who to act as
Secretary.

Oath of office.

Board to exam-
ine tabular
statements of
boards of super-
visors.

Assessments
relatively un-
equal how
equalized.

Duty of Auditor
General and
county treas-
urer.

Board of super-
visors to equal-
ize assessments.

(320.) SEC. 2. It shall be the duty of the board to meet at the Capitol in the village of Lansing, on the third Monday of August; and the persons composing it shall organize by choosing one of their number chairman, and the Deputy Auditor General, or one of the clerks in the office of the Auditor General, shall act as secretary, who shall keep a record of the proceedings, which shall be certified by said chairman and secretary, and filed in the office of the Auditor General.

(321.) SEC. 3. The several persons constituting the board, as herein provided, before entering upon the duties of their office, shall each take and subscribe the constitutional oath of office, before some person authorized to administer oaths; which oaths shall be filed and preserved with the proceedings of the board.

(322.) SEC. 4. After said board shall have been organized, they shall proceed to examine the tabular statements of the board of supervisors of each county, provided for in the eighth section of this act, and to hear the representatives from the several boards of supervisors as hereinafter provided; and they shall determine whether the relative valuation between the several counties is equal and uniform, according to location, soil, improvements, production, and manufactories; and also whether the personal estate of the several counties has been uniformly estimated, according to the best information which can be derived from the statistics of the State, or from any other source. If, after such examination, such assessment shall be determined relatively unequal, they shall equalize the same, by adding to or deducting from the aggregate valuation of taxable real and personal estate in such county or counties such percentage as will produce relative, equal, and uniform valuations between the several counties in the State; and the percentage added to or deducted from the valuations in each county shall be entered upon their records; and the valuations of the several counties as equalized, shall be certified and signed by the chairman and secretary of the board, and filed in the office of the Auditor General, and shall be the basis for apportioning all State taxes until another equalization shall be made.

(323.) SEC. 5. It shall be the duty of the Auditor General, as soon as may be after the determination of the State Board of Equalization shall be filed in his office, as provided in the preceding section, to send a certified transcript of the same to the treasurer of each county, who shall cause the same to be published in one or more papers in the county.

(324.) SEC. 6. A meeting of the Board of Supervisors for the year eighteen hundred and fifty-one shall be held on the second Monday of June, and on the second Monday of June every fifth year thereafter; and when convened, the board shall proceed to equalize the assessment rolls in the same manner as is provided in chapter twenty of the revised statutes of eighteen hundred and forty-six; and each of said supervisors shall add up the columns of their respective rolls, enumerating the number of acres of land, and the value of the real estate and personal property so assessed, so as to show the aggregate of each.

(325.) SEC. 7. The Board of Equalizers shall hear any evidence which may be laid before them by any person appointed by any board of supervisors, and any representation made by such person in behalf of any county. Board may hear evidence.

(326.) SEC. 8. It shall be the duty of the clerk of each board of supervisors to make out a tabular statement, from the aggregate of the several assessment rolls, of the number of acres of land, and the value of the real estate and personal property, in each township and ward, as assessed, and also the aggregate valuation of the real estate of each roll as equalized, and make a certified copy thereof, signed by the chairman and clerk, and transmit the same to the Auditor General on or before the second Monday of July following, who shall lay the same before the State Board of Equalization, when organized: *Provided*, That such statement and copy shall not embrace any property paying specific taxes.

(327.) SEC. 9. Any three members of the board shall constitute a quorum for the transaction of business. The Lieutenant Governor shall receive three dollars a day for actual attendance, and ten cents a mile for travel in going to and returning from the seat of government, the usual traveled route, to be paid out of the treasury, on the warrant of the Auditor General.

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1822

TAX LAW

OF THE

STATE OF MICHIGAN,

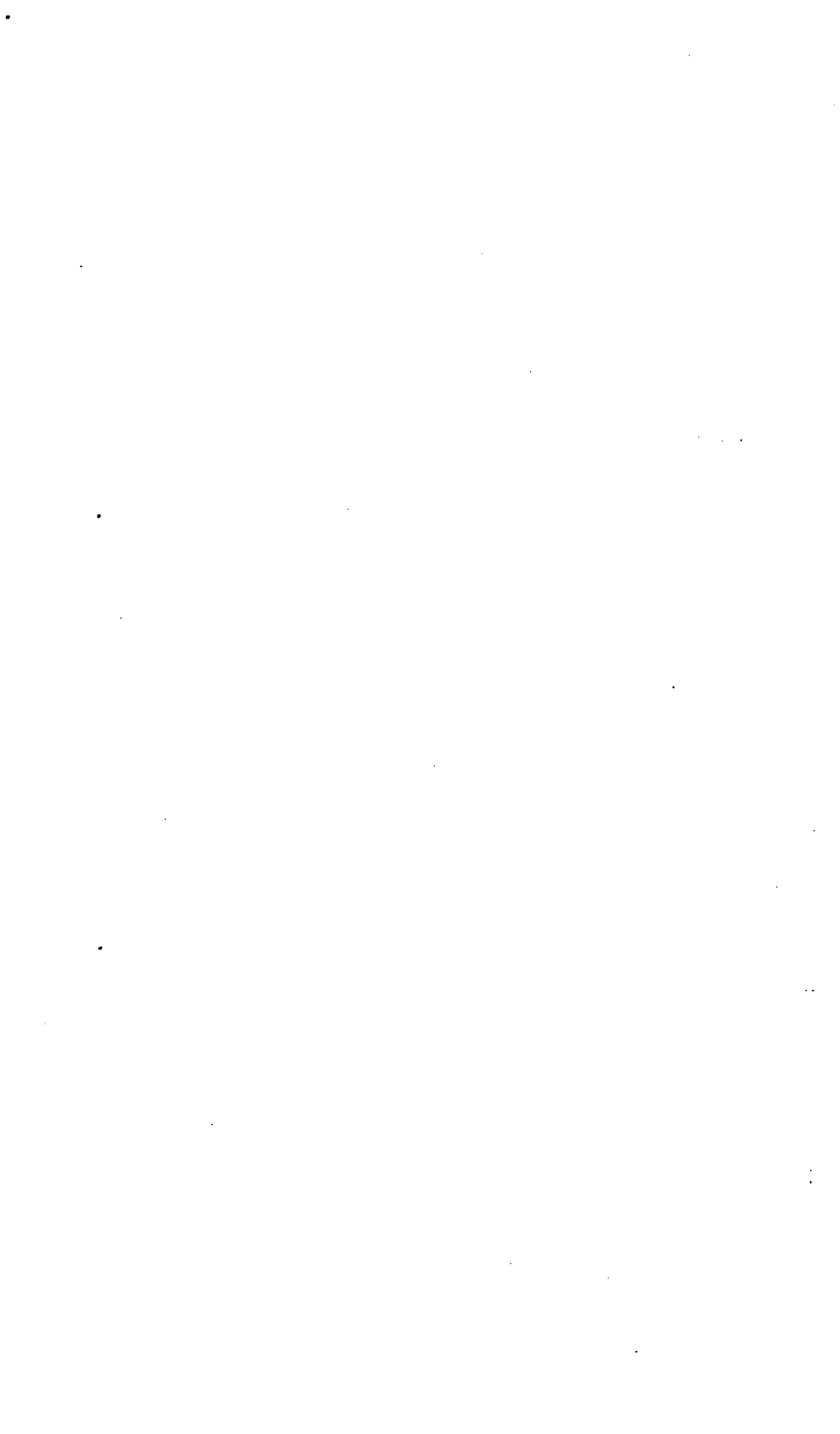
AS ENACTED BY THE LEGISLATURE AT ITS SPECIAL SESSION,
A. D. 1882.

Published under the Supervision of the Auditor General.



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W. S. GEORGE & CO., STATE PRINTERS AND BINDERS.
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IMPORTANT CHANGES.

The importance of becoming fully conversant with *all* the duties imposed by this law upon officers charged with the levying and collecting of taxes is obvious.

Special attention is called to the following:

SEC. 3. Changes as to exemptions.

SEC. 4. Manner of ascertaining taxable property of insurance companies.

SEC. 8. As to taxation of State homesteads after licensee is entitled to make final proof.

SEC. 9. As to manner of assessing part-paid State lands.

SEC. 10. As to whom personal property shall be assessed.

SEC. 12. As to duties of supervisors, cashiers of banks, and county clerks.

SEC. 13. As to statement of taxable property.

SECS. 18, 19, and 20. As to board of review.

SECS. 23 to 26. As to duties of township and county clerks.

SEC. 32. As to extension of time for collection of taxes.

SEC. 34. As to duties of town treasurers.

SEC. 41. As to the order of disbursing money collected by town treasurers.

SECS. 95 and 96. As to application of the new law to cities and villages.

SEC. 99. As to compensation of supervisors and members of boards of review.

SEC. 103. As to penalties for willfully assessing property at more or less than cash value.

Sections 2482 and 2527 of the compiled laws having been repealed, the property of street or train railway companies becomes taxable on the general roll under section 4, the same as if it were owned by a natural person.

W. IRVING LATIMER,

Auditor General.

TAX LAW
OF THE
STATE OF MICHIGAN.

AN ACT to provide for the assessment of property and the levy and collection of taxes thereon.

OF THE PERSONS AND PROPERTY LIABLE TO TAXATION.

SECTION 1. *The People of the State of Michigan enact,* That all property within the jurisdiction of this State, not expressly exempted, shall be subject to taxation.

SEC. 2. For the purpose of taxation, real property shall include all lands within the State, and all buildings and fixtures thereon and appurtenances thereto, except in cases otherwise expressly provided by law; personal property shall include all goods and chattels within the State, all ships, boats, and vessels belonging to inhabitants of this State, whether at home or abroad, and their appurtenances; all goods, chattels, and effects belonging to inhabitants of this State, situate without this State, except that property actually and permanently invested in business in another State shall not be included; all indebtedness due to inhabitants of this State above the amounts respectively owed by them, whether such indebtedness is due from individuals or from corporations, public or private, and whether such debtors reside within or without the State; all shares in corporations organized under the laws of this State, when the property of such corporation is not exempt or is not taxable to itself; all shares in banks organized in this State under any law of the United States, but in estimating the value of such shares, deduction shall be made of the value of all real estate taxed to the bank; all shares in foreign corporations (except national banks) owned by inhabitants of this State; all moneys; all annuities and royalties; all interests owned by individuals in lands, the fee of which is in this State or the United States, except as hereinafter provided. Property exempt from taxation by the laws of the United States shall not be included. Shares in corporations, the property of which is taxable to itself, shall not be assessed to the shareholder.

Of what property shall consist.

Personal property.

SEC. 3. The following property shall be exempt from taxation:

What exempt from taxation.

First, All public property belonging to the United States, to this State, or to any county, city, village, township, or school district

within this State, save lands purchased at tax sales and still held by the State.

Second, The personal property of all library, benevolent, charitable, and scientific institutions incorporated under the laws of this State, and such real estate as shall be occupied by them for the purposes for which they were incorporated.¹

Third, All houses of public worship, with the land on which they stand, the furniture therein, and all rights in the pews; and also any parsonage owned by any religious society of this State and occupied as such.

Fourth, All lands used exclusively as burial grounds, and the rights of burial therein and the tombs and monuments therein, while in use for that purpose: *Provided,* That the stock of any corporation owning such ground shall not be exempt: *Provided further,* That tombs or vaults built within any burying grounds and kept for rent, in whole or in part, shall be assessed as personal property.

Fifth, Library or school books of the value of one hundred and fifty dollars, the personal wearing apparel of every individual, and all family pictures.

Sixth, Furniture and utensils in use in any dwelling house, of the value of two hundred dollars; musical instruments not exceeding in value one hundred and fifty dollars, and other personal property owned and used by any householder in connection with his house or business, of the value of two hundred dollars.

Seventh, The personal and real property of persons who, in the opinion of the supervisor, are, by reason of poverty, unable to contribute towards public charges.

How corporate property assessed.

SEC. 4. All corporate property, except where some other provision is made by law, shall be assessed to the corporation as to a natural person in the name of the corporation. The place where its principal office in this State is situated shall be deemed its residence. The property of corporations paying specific taxes shall be exempt, as to the property covered by such taxation except when otherwise provided by law. All other property of such corporation shall be taxed under this act. In computing the taxable property of insurance companies organized under the laws of this State, the value of the real property on which a company pays taxes shall be deducted from its net assets above liabilities, as determined and shown by the last report of the Commissioner of Insurance, and the remainder shall be the amount of personal property for which the company shall be assessed.

What property of corporations paying specific taxes exempt.

Taxable property of insurance companies.

How property of copartnership assessed.

SEC. 5. For the purposes of assessing property and collecting taxes, a copartnership shall be treated as an individual, and whenever the name of the owner or occupant of property is required to be entered upon the assessment roll, if such property is owned or occupied by a copartnership, the firm name shall be used. A copartnership shall be deemed to reside in the township where its business is principally carried on. Each partner shall be liable for the whole tax.

Liability of partners.

¹ See Sec. 2189, C. L. 1871, for exemption of property of agricultural societies.

SEC. 6. Real property shall be assessed in the place where situated, and to the owner, if known; if not, then to the occupant if any, and if there be no occupant, then as unknown. An executor, administrator, guardian, or trustee, having control of real property, may be treated as its owner. Where real property to be assessed.

SEC. 7. The real property which belonged to a person deceased not being in the control of an executor or administrator may be assessed to his heirs or devisees jointly without naming them, until they shall have given notice of their respective names to the supervisor, and of the division of the estate. How property of deceased person assessed.

SEC. 8. All licensed homestead lands, the fee of which is in the State, when the licensee is entitled to make his final proof to obtain a patent shall be assessed, returned, and sold as other real property. How homesteads assessed.

SEC. 9. The interest in land of any person holding a part-paid certificate for the purchase of any State lands shall be assessed separate from other property. The assessment shall describe the land, and state therein that the title is in the State. The taxes, if not paid to the township treasurer, shall be returned and collected as hereinafter provided. Assessment of part-paid certificates for land.

SEC. 10. All personal property, except as hereinafter provided, shall be assessed to the owner in the township of which he is an inhabitant, on the second Monday of April of the year for which the assessment is made. Personal property to be assessed in township where owner resides.

SEC. 11. The excepted cases referred to in the preceding section are as follows, viz.:

First, All goods and chattels situate in some township other than where the owner resides shall be assessed in the town where situate, and not elsewhere if the owner or person having control thereof hires or occupies a store, mill, place for sale of property, shop, office, mine, farm, storage, manufactory or warehouse therein, for use in connection with such goods and chattels. Exceptions to cases in preceding sections.

Second, All animals kept throughout the year in some town other than where the owner resides, shall be assessed to such owner, or the person in possession, in the town where kept.

Third, All shares in banks shall be assessed to their owners in the town where the bank is located: *Provided*, That shares owned by a person residing within the county where the bank is located shall be assessed in the town where he resides.

Fourth, Personal property of non-residents of the State shall be assessed to the owner or to the person having control thereof in the town where the same may be, except that where such property is in transit to some place within this State, it shall be assessed in such place.

Fifth, The personal property of minors under guardianship shall be assessed to the guardian in the town where he resides, and the personal property of every other person under guardianship shall be assessed to the guardian in the town where the ward resides.

Sixth, The personal property belonging to the estates of deceased persons, in the hands of executors or administrators, shall be assessed to them in the town where the deceased last dwelt, until they shall give notice that the estate has been distributed to the parties interested. If such deceased was a non-resident of the State, such

property shall be assessed in the town where situated, to such executors, administrators, or to the person in possession.

Seventh, Personal property under the control of a trustee or agent, whether a corporation or natural person, may be assessed to such trustee or agent in the town where he resides. Personal property mortgaged or pledged shall be deemed the property of the person in possession thereof, and may be assessed to him.

OF THE ASSESSMENT ROLL.

Supervisor to ascertain property in his township.

May require detailed statement in writing.

Auditor General to furnish blanks for statement.

What statement to show.

Cashier of banks to file statement of property with county clerk.

What statement to show.

County clerk to notify supervisor of names of persons holding stock.

What statement required by this act to set forth.

SEC. 12. It shall be the duty of each supervisor, as soon as possible after entering on the duties of his office, to ascertain the taxable property of his township, and the persons to whom it should be assessed, and their residences. For this purpose he may require every person of full age and sound mind, and the proper officer of every corporation, to make in writing a full and detailed statement, signed by the person making it, of all the taxable property of such person or corporation, whether owned by him or it or held for the use of another, and it shall be the duty of every such person and corporation to furnish such statement when so requested. The Auditor General is required to prepare and distribute to the county treasurers blanks for such statements. These blanks shall be furnished by the county treasurer to the supervisors, and each supervisor is authorized to add to such blank any questions he may deem necessary. These statements shall show whether such property is owned by the person making the statement, or held for the use of another, and if the latter, in what capacity it is held. They shall show the indebtedness of any person so far as he wishes a deduction from his credits on account of such indebtedness. The cashier of every bank shall, on the second Monday of April in each year, file in the office of the county clerk of the county where the bank is located, a statement of all real estate held by the bank and its value, a list of the names of the stockholders, the amounts of stock held by each, and their respective residences. The statement aforesaid shall show the facts as they exist on the second Monday of April of the year when made. Immediately after the filing of such statement, the county clerk shall notify the supervisor of each township of the name of each person (if any) residing in his township holding shares of stock in any such bank, and of the amount thereof, as shown by such statement. All property shall be assessed as of the second Monday of April.

SEC. 13. Every person required by this act to make or deliver such statement shall set forth an account of the property held or owned by him, as follows:

Real Property.

An accurate description of each parcel of land with the number of acres, and the number of acres improved and the number and kind of buildings thereon.

Personal Property—Credits.

First, All annuities and royalties.

Second, All bonds, notes, mortgages, accounts, demands, claims,

and other indebtedness owing to such person, whether such indebtedness is due from individuals or from corporations, public or private, and whether such debtors reside within or without this State, including all deposits in banks or with other corporations or individuals.

Third, All *bona fide* indebtedness owing by such person, giving an itemized statement in detail and to whom owing, and the residence of such creditors, and the amount due each, provided he desires to have the same deducted from his credits.

Personal Property—Chattels.

First, All shares in banks organized in this State under any law of this State or of the United States, and their value after deducting the value of the real estate taxed to the bank.

Second, All shares in foreign corporations (except national banks) and their value.

Third, All shares in other corporations organized under the laws of this State, when the property of such corporation is not exempt, or is not taxable to itself and their value.

Fourth, All moneys.

Fifth, The value of all gold and silver plate, watches, diamonds, and jewelry.

Sixth, The value of all household furniture and musical instruments over and above exemptions.

Seventh, All patent rights and their value.

Eighth, The number and kinds of domestic animals, and their value.

Ninth, All wagons, carriages, and sleighs, and their value.

Tenth, All mechanical and agricultural implements and tools, and their value.

Eleventh, All machinery not affixed to real property, and its value.

Twelfth, All ships, boats, and vessels, whether at home or abroad, and their value.

Thirteenth, All merchandise and stock in trade, and its value.

Fourteenth, All logs, lumber, posts, and ties and their value.

Fifteenth, All other goods, chattels, and personal property not heretofore specifically mentioned, and their value, except property specifically exempt from taxation.

Sixteenth, All goods and chattels which are exempt from taxation.

SEC. 14. In every case when any person shall neglect or refuse to make out and deliver a statement of his property to the supervisor, as required by this act, or if the supervisor shall be satisfied that any statement so made is incorrect, said supervisor is hereby authorized to examine on oath the person so neglecting or refusing, and any other person or persons whom he may have good reason to believe and does believe has knowledge of the amount or value of any property owned or held by such person so neglecting or refusing; and such supervisor is hereby authorized to set down and assess to such person such amount of personal property as he may deem just.

Power and authority of supervisor, when persons neglect to make statement of property.

property shall be assessed in the town where situated, to such executors, administrators, or to the person in possession.

Seventh, Personal property under the control of a trustee or agent, whether a corporation or natural person, may be assessed to such trustee or agent in the town where he resides. Personal property mortgaged or pledged shall be deemed the property of the person in possession thereof, and may be assessed to him.

OF THE ASSESSMENT ROLL.

Supervisor to ascertain property in his township.

May require detailed statement in writing.

Auditor General to furnish blanks for statement.

What statement to show.

Cashier of banks to file statement of property with county clerk.

What statement to show.

County clerk to notify supervisor of names of persons holding stock.

What statement required by this act to set forth.

SEC. 12. It shall be the duty of each supervisor, as soon as possible after entering on the duties of his office, to ascertain the taxable property of his township, and the persons to whom it should be assessed, and their residences. For this purpose he may require every person of full age and sound mind, and the proper officer of every corporation, to make in writing a full and detailed statement, signed by the person making it, of all the taxable property of such person or corporation, whether owned by him or it or held for the use of another, and it shall be the duty of every such person and corporation to furnish such statement when so requested. The Auditor General is required to prepare and distribute to the county treasurers blanks for such statements. These blanks shall be furnished by the county treasurer to the supervisors, and each supervisor is authorized to add to such blank any questions he may deem necessary. These statements shall show whether such property is owned by the person making the statement, or held for the use of another, and if the latter, in what capacity it is held. They shall show the indebtedness of any person so far as he wishes a deduction from his credits on account of such indebtedness. The cashier of every bank shall, on the second Monday of April in each year, file in the office of the county clerk of the county where the bank is located, a statement of all real estate held by the bank and its value, a list of the names of the stockholders, the amounts of stock held by each, and their respective residences. The statement aforesaid shall show the facts as they exist on the second Monday of April of the year when made. Immediately after the filing of such statement, the county clerk shall notify the supervisor of each township of the name of each person (if any) residing in his township holding shares of stock in any such bank, and of the amount thereof, as shown by such statement. All property shall be assessed as of the second Monday of April.

SEC. 13. Every person required by this act to make or deliver such statement shall set forth an account of the property held or owned by him, as follows:

Real Property.

An accurate description of each parcel of land with the number of acres, and the number of acres improved and the number and kind of buildings thereon.

Personal Property—Credits.

First, All annuities and royalties.

Second, All bonds, notes, mortgages, accounts, demands, claims,

and other indebtedness owing to such person, whether such indebtedness is due from individuals or from corporations, public or private, and whether such debtors reside within or without this State, including all deposits in banks or with other corporations or individuals.

Third, All *bona fide* indebtedness owing by such person, giving an itemized statement in detail and to whom owing, and the residence of such creditors, and the amount due each, provided he desires to have the same deducted from his credits.

Personal Property—Chattels.

First, All shares in banks organized in this State under any law of this State or of the United States, and their value after deducting the value of the real estate taxed to the bank.

Second, All shares in foreign corporations (except national banks) and their value.

Third, All shares in other corporations organized under the laws of this State, when the property of such corporation is not exempt, or is not taxable to itself and their value.

Fourth, All moneys.

Fifth, The value of all gold and silver plate, watches, diamonds, and jewelry.

Sixth, The value of all household furniture and musical instruments over and above exemptions.

Seventh, All patent rights and their value.

Eighth, The number and kinds of domestic animals, and their value.

Ninth, All wagons, carriages, and sleighs, and their value.

Tenth, All mechanical and agricultural implements and tools, and their value.

Eleventh, All machinery not affixed to real property, and its value.

Twelfth, All ships, boats, and vessels, whether at home or abroad, and their value.

Thirteenth, All merchandise and stock in trade, and its value.

Fourteenth, All logs, lumber, posts, and ties and their value.

Fifteenth, All other goods, chattels, and personal property not heretofore specifically mentioned, and their value, except property specifically exempt from taxation.

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Power and authority of supervisor, when persons neglect to make statement of property.

Time and manner
of making assess-
ment-roll, and
powers and du-
ties of supervi-
sor.

SEC. 15. On or before the third Monday of May in each year, the supervisor shall make and complete an assessment roll, upon which he shall set down the name of every person liable to be taxed for personal property in his township, and also a full description of all the real property liable to be taxed in such township. If the name of the owner or occupant of any such tract or parcel of real property is known, he shall enter the name of such owner or occupant opposite to the description thereof; in all other cases the real property described upon such roll shall be assessed as owner unknown. Each description shall show the number of acres contained in it, as determined by the supervisor. It shall not be necessary for the assessment roll to specify the quantity of land comprised in any town, city, or village lot. The supervisor shall estimate, according to his best information and judgment, the true cash value of every parcel of real property, and set the same down opposite such parcel. He shall also estimate the true cash value of all the personal property of each person, and set the same down opposite the name of such person. In determining the property to be assessed and in estimating such values he shall not be bound to follow the statements of any person, but shall exercise his best judgment. Property assessed to one other than the owner shall be assessed separate from his property, and shall show in what capacity it is assessed to him. Two or more persons not being co-partners, owning personal property in common, may each be assessed severally for his portion thereof. Undivided interests in lands owned by tenants in common, or joint tenants not being co-partners, may be assessed to the owners thereof.

How undivided
interests in lands
assessed.

How real prop-
erty to be
described.

SEC. 16. The description of real property may be as follows, viz.:

First, If the land to be assessed be an entire section, it may be described by the number of the section, township, and range.

Second, If the tract be the subdivision of a section authorized by the United States for the sale of public lands, it may be described by the designation of such subdivision with the number of the section, township, and range.

Third, If the tract be less or other than such subdivision, it may be described by designation of the lot or other lands by which it is bounded, or in some way by which it may be known.

Fourth, In cases of lands platted or laid out as a town, city, or village, or as an addition to a town, city, or village, the same may be described by reference to such plat and by the number of the lots and blocks thereof, whether such plat be recorded or not.

Fifth, When two or more parcels of land are used or occupied together, they may be assessed by one valuation.

Sixth, Lands may be designated by any description by which they may be known.

Seventh, It shall be sufficient to describe the real property assessed upon any roll and in all other proceedings under this act, in the manner heretofore in use by initials, letters, abbreviations, and figures.

What "cash val-
ue" to mean.

SEC. 17. The words "cash value," whenever used in this act, shall be held to mean the usual selling price at the place where the

property to which the term is applied shall be at the time of assessment, being the price which could be obtained therefor at private sale, and not at forced or auction sale.

SEC. 18. After the annual township meeting, and on or before the first Monday of May in each year, the township board shall appoint two suitable tax paying electors of the township to serve as members of the board of review for that year, who shall take the constitutional oath of office. The supervisor and the two electors so appointed shall constitute the board of review for such township. The township board may fill any vacancy which shall occur in the membership of said board of review. A majority of said board of review shall constitute a quorum for the transaction of business, but a less number may adjourn from day to day, and a majority vote of those present shall decide all questions. On the Tuesday next following the third Monday of May, the board of review of each township shall meet at the office of the supervisor; at which time the supervisor shall submit to said board the assessment roll for the current year, as prepared by him, and the said board shall proceed to examine and review the same, and during that week, said board, of its own motion, or on sufficient cause being shown by any person, shall add to said roll the names of persons, the value of personal property, and the description and value of real property liable to assessment in said township, omitted from such assessment roll; they shall correct all errors in the names of persons, in the descriptions of property upon such roll, and in the assessment and valuation of property thereon, and they shall cause to be done whatever else may be necessary to make said roll comply with the provisions of this act. The board shall pass upon each valuation, and enter the valuation as fixed by it in a separate column. The roll as prepared by the supervisor shall stand as approved and adopted as the act of the board of review, except as changed by a vote as herein provided. If for any cause a quorum does not assemble during the week above mentioned, the roll as prepared by the supervisor shall stand as if approved by the board of review.

Appointment of members of board of review.

Who to constitute board of review.

How vacancies on board may be filled.

Quorum.

When board to meet.

Supervisor to submit roll to board.

What board required to do.

When roll considered approved.

SEC. 19. Said board of review shall also meet at the office of the supervisor on the fourth Monday in May at nine o'clock in the forenoon, and continue in session during that day and the day following and as much longer as may be necessary to complete the review of such assessment roll, not to exceed five days in all. Such board shall continue its session at least six hours each day, and at the request of any person whose property is assessed thereon, or of his agent, and on sufficient cause being shown shall correct the assessment as to such property in such manner as in their judgment will make the valuation thereof relatively just and equal. To that end said board may examine on oath the person making such application or any other person touching the matter. Any member of said board may administer such oath. After said board shall complete the review of said roll, a majority of said board shall endorse thereon and sign a statement to the effect that the same is the assessment roll for said township for the year in which it has

Meeting of board on fourth Monday in May.

Statement to be endorsed on roll.

been prepared and approved by the board of review. Said statement may be in the following form, viz:

Form of
endorsement.

"Assessment roll of the township of _____, for the year 18____, as approved by the board of review.

"Dated _____, _____,
_____, _____,
_____, _____.

"Board of Review."

Omission of
endorsement not
to effect validity
of roll.

Upon the completion of said roll, and its endorsement in manner aforesaid, the same shall be conclusively presumed by all courts and tribunals to be valid, and shall not be set aside except for causes hereinafter mentioned. The omission of such endorsement shall not affect the validity of such roll.

Notice to mem-
bers to attend
meeting of board.

SEC. 20. If from any cause a quorum shall not be present at any meeting of the board of review, it shall be the duty of the supervisor, or, in his absence, any other member of the board present, to notify each absent member to attend at once, and it shall be the duty of the member so notified to attend without delay. If from any cause the second meeting of such board of review herein provided for, is not held at the time fixed therefor, then and in that case it shall meet on the next Monday thereafter and proceed in the same manner and with like powers as if such meeting had been held as hereinbefore provided.

When board to
meet, if second
meeting not held.

Examination of
roll by board of
supervisors.

SEC. 21. The board of supervisors in each county shall, at their session in October in each year, examine the assessment rolls of the several townships, and ascertain whether the relative valuation of the real property in the respective townships has been equally and uniformly estimated. If, on such examination, they shall deem such valuation to be relatively unequal, they shall equalize the same by adding to or deducting from the valuation of the taxable property in any township or townships such an amount as in their judgment will produce relatively an equal and uniform valuation of the real property in the county, and the amount added to or deducted from the valuation in any township shall be entered upon the records. They shall also cause to be entered upon their records the aggregate valuation of the taxable real and personal property, of each township in their county, as determined by them. The board shall also make such alterations in the description of any lands upon such rolls as may be necessary to render such description conformable to the requirements of this act. After such rolls shall have been equalized, each shall be delivered to the supervisor of the proper township, who shall file and keep the same in his office.

Equalization of
valuation of
property.

Disposition of
rolls after
equalization.

Auditor General
to make record
of State taxes to
be raised.

SEC. 22. On or before the first day of September in each year, the Auditor General shall make and record in his office, a statement showing the taxes to be raised for State purposes that year referring to the law on which each tax is based, and the total amount of such taxes. This State tax he shall apportion among the several counties in proportion to the valuation of the taxable property therein as determined by the last preceding State Board of Equalization, and shall, before the October session of the board of super-

Apportionment
among counties.

visors in each year, make out and transmit to the clerk of each county a statement of the amount of such taxes so apportioned to such county. He shall also, in a separate item of said statement, set forth the amount of indebtedness of such county to the State as shall be shown by the statement of the account between the county and the State made by the Auditor General on the first day of July next previous to such apportionment; which amount shall be apportioned by the board of supervisors of the proper county at the same time as the State taxes contained in said apportionment of the Auditor General, and shall be levied in the same manner as and become a portion of the county taxes for the same year: *Provided*, That such portion thereof (if any) as should be assessed to a particular township shall be apportioned to and assessed upon such township.

Statement to county clerk of taxes so apportioned.

Statement of county indebtedness to State.

Provido.

SEC. 23. It shall be the duty of the township clerk of each township, on or before the first day of October of each year, to make and deliver to the supervisor of his township a certified copy of all statements and certificates on file and of all records of any vote or resolution in his office authorizing or directing moneys to be raised therein by taxation for township, school, highway, and all other purposes, together with a statement of the aggregate amount thereof, and such certified copies shall by such supervisor be delivered to the clerk of the board of supervisors of the county, on or before the second Monday of said month, and the same shall, by said county clerk, be laid before the board at its annual meeting, and filed in his office.

Township clerk to deliver to supervisor statement of moneys to be raised.

SEC. 24. The board of supervisors, at their annual session in October in each year, shall ascertain and determine the amount of money to be raised for county purposes, and shall apportion such amount and also the amount of the State tax, and indebtedness of the county to the State among the several townships in the county in proportion to the valuation of the taxable property therein real and personal as determined by them for that year, which determination and apportionment shall be entered at large on their records. They shall also examine all certificates, statements, papers, and records submitted to them showing the moneys to be raised in the several townships for school, highway, and township purposes. They shall hear and duly consider all objections made to raising any such moneys by any taxpayer to be affected thereby. If it shall appear to the board that any certificate, statement, paper, or record is not properly certified, or that the same is in any wise defective, or that any proceeding to authorize the raising of any such moneys has not been had or is in any wise imperfect, and such certificate, statement, paper, record, or proceeding can then be corrected, supplied, or had, such board may authorize and require such defects or omissions to be corrected, supplied, or had. They may refer any or all such certificates, statements, papers, records, and proceedings to the prosecuting attorney whose duty it shall be to carefully examine the same, and without delay report in writing his opinion to the board. They shall direct that such of the several amounts of money proposed to be raised for township, school, and highway purposes as shall be

Board of supervisors to apportion taxes among townships.

Examine statements showing moneys to be raised in township.

Hear objections to raising money.

Authorize the correction of errors and omissions in records, etc.

May refer matters to prosecuting attorney.

May direct that money to be raised be spread upon roll.

Record of action of board. authorized by law, be spread upon the assessment roll of the proper township. Such action and direction shall be entered in full upon the records of the proceedings of the board.

Clerk of board of supervisors to make certificates of apportionment of taxes for county treasurer and supervisor. SEC. 25. The clerk of the board of supervisors shall, immediately after the said apportionment, make out two certificates showing the amounts apportioned to each township for State, county, and the various township purposes, each tax being kept distinct, one of which he shall deliver to the county treasurer, and the other to the supervisor of the proper township: *Provided*,

Proviso.

That if the county clerk fail to make such certificate, the supervisor shall take official notice of all the certificates, statements, papers, and records in the office of the county clerk relating to the levy of taxes in his township, and of the action of the board of supervisors thereon.

Assessment by supervisors.

SEC. 26. Each supervisor shall proceed to assess the taxes apportioned to his township, according and in proportion to the valuations entered by the board of review in the assessment roll of the township for the year: *Provided*, That if the board of review make no such entry then on the valuation therein as entered by the supervisor. For the purpose of avoiding fractions in excess in such taxes, the supervisor may add to the several amounts to be raised not more than one per cent. Said excess shall belong to the contingent fund of the township. Such taxes shall be entered in separate columns as follows: All school taxes and the one mill tax in one column, highway taxes in another, township taxes in another, county taxes in another, and the State taxes in another column, and if other taxes are at any time required to be raised they shall be placed in separate columns. The total of such taxes assessed against any one valuation or parcel of property, shall be footed up and carried out in the last column upon the right hand side of such roll. The taxes thus assessed shall become at once a debt to the township from the persons to whom they are assessed, and the amounts assessed on any real property shall, on the first day of December, become a lien on such real property, and the lien for such amounts, and for all interest and charges thereon, shall continue until payment thereof. Before the supervisor shall deliver such roll to the township treasurer, he shall carefully foot up the several taxes therein levied, and shall give to the township clerk of his township a statement thereof, and such township clerk shall immediately charge the amount of such taxes to the township treasurer.

How taxes to be entered in roll.

Taxes assessed to be a debt to the township, and become a lien on property.

Taxes to be charged to township treasurer.

OF THE TAX ROLL.

Assessment roll, and warrant to township treasurer.

SEC. 27. The supervisor shall thereupon prepare a copy of the said assessment roll with the taxes assessed as hereinbefore provided, and annex thereto a warrant signed by him, commanding the township treasurer to collect the several sums mentioned in the last column of such roll, and to retain in his hands the amount receivable by law into the township treasury for the purposes therein specified, and to account for and pay over to the county treasurer the amounts therein specified for State and county purposes, on or

before the first day of February then next; and the said warrant shall authorize the treasurer, in case any person named in the assessment roll shall neglect or refuse to pay his tax, to levy the same by distress and sale of the goods and chattels of such persons. The supervisor may make a new roll and warrant in case of the loss of the one given the township treasurer. The copy of the roll, with the warrant annexed, shall be known as the tax roll.

Warrant to authorise distress and sale of property.

New warrant and roll in case of loss.

SEC. 28. The supervisor of each township, on or before the fifteenth day of November in each year shall notify the township treasurer of the amount of State and county tax [as] apportioned to his township, and such treasurer, on or before the twenty-fifth day of November, shall give to the county treasurer a bond running to the county, in double the amount of State and county taxes, with sufficient sureties, to be approved by the supervisor of the township and the county treasurer, conditioned that he will pay over to the county treasurer as required by law all State and county taxes which he shall collect during his term of office, and duly and faithfully perform all the other duties of his office.

Notice to be given to township treasurer.

Bond of treasurer.

SEC. 29. The county treasurer shall file and safely keep such bond in his office, and shall give to the township treasurer a receipt stating that he has received the bond required by the preceding section, which receipt the township treasurer shall deliver to the supervisor on or before the first day of December.

Receipt for bond.

SEC. 30. The supervisor, after the delivery of such receipt, and on or before the first day of December, shall deliver to the township treasurer the tax roll of his township.

Delivery of tax-roll to township treasurer.

SEC. 31. On receiving such tax roll, the township treasurer shall proceed to collect such taxes. He shall remain in his office at some convenient place in his township, on every Friday in December thereafter, from nine o'clock A. M. to five o'clock P. M., to receive taxes, and on all sums voluntarily paid before the first day of January of the succeeding year, he shall add one per cent for collection fees, and upon all taxes paid on or after said first day of January he shall add four per cent. In case he is justly apprehensive of the loss of any personal tax, he may take steps to enforce its collection at any time, and if compelled to seize property or bring suit in December, may add four per cent for collection fees.

Duty of treasurer in collection of taxes.

Treasurer may enforce collection of personal tax.

SEC. 32. All taxes shall be collected before the first day of February, unless the time for collection is extended. The township board of any township or the common council of any city may extend such time, not exceeding one month. No extension shall be granted by the board of supervisors. When such an extension is made, the township clerk shall immediately notify the county treasurer thereof. In case of an extension, the warrant annexed to the tax roll shall continue in force during the time extended, and the bonds of the township treasurer shall not be invalidated by any such extension.

When taxes to be collected.

Extension of time.

County treasurer to be notified of extension.

SEC. 33. To all taxes paid on or after the first day of February the township treasurer shall add and collect interest at the rate hereinafter provided.

When interest to be collected.

Collection of tax
after first day of
January.

SEC. 34. For the purpose of collecting the taxes remaining unpaid on the first day of January, the township treasurer shall, during that month, call upon each person liable to pay such taxes personally, if a resident of such township, or at his usual place of residence or business therein, and demand payment of the taxes charged against him. If such person is not a resident of the township, but resides within the county, and his residence is known to the treasurer, he shall make such demand either personally or by mail. If demand is sent by mail, the amount of the tax shall be stated and the place and time where and when it may be paid. He shall give a receipt for every tax paid, and shall enter the fact of payment and the date thereof upon his tax roll. In case of any tax assessed upon the shares of the capital stock of any bank he shall call upon the cashier of such bank and demand payment thereof, and thereupon it shall be the duty of such cashier to pay the same and charge the amount so paid against the shares of stock so taxed.

Collection by
seizure and sale
of property.

SEC. 35. If any person shall neglect or refuse to pay any tax assessed to him, the township treasurer shall collect the same by seizing the personal property of such person to an amount sufficient to pay such tax fees and charges for subsequent sale wherever the same may be found in the county, from which seizure no property shall be exempt. He may sell the property seized to an amount sufficient to pay the tax and all charges, in the township where seized, at public auction, on giving public notice of the same for at least five days previous to the sale, by posting written or printed notices in three public places in the township where the sale is to be made, which sale may be adjourned from time to time if he shall deem the same necessary. If it becomes necessary to sell personal property which brings more than the amount of taxes and charges, the balance shall be returned to the person from whose possession the property was taken, except as hereinafter provided. If the property so distrained cannot be sold for want of bidders, the treasurer shall return a statement of the fact, and such tax shall be returned as unpaid. The township treasurer, if otherwise unable to collect a tax on personal property, may sue the person to whom it is assessed, in the name of the township. The tax roll shall be *prima facie* evidence of the debt sought to be recovered.

Fees for selling
property.

SEC. 36. In case of a distress and sale of goods and chattels for the payment of any tax, the township treasurer or other collecting officer may also collect on such sale one dollar and twenty-five cents over and above the tax, as his fees for making such sale, which fees and per centage hereinbefore provided shall be in full for his services in collecting such taxes; and in case payment of such tax shall be made after the distress and before the sale, it shall be lawful for such treasurer or collecting officer to require the payment of one dollar and twenty-five cents as his fee for making such distress, and to enforce payment of the same, if need be, by making the sale notwithstanding the tax shall have been paid.

Executions on
judgments for
taxes.

SEC. 37. Executions issued upon judgments rendered for any tax may be levied upon any property, without exemption, the same as though seized for sale under warrants issued for the collection of

taxes by township supervisors, and collected in the same manner, in all other respects, as provided by law for the collection of judgments.

SEC. 38. Whenever a surplus arising from the sale of any property distrained for taxes shall be claimed by any other than the person for whose tax such property was sold, and such claim shall be contested, either of the contestants may prosecute an action against the other, as for money had and received, and in such action the rights of the parties to such surplus shall be determined. For the purpose of such action, the defendant shall be deemed to be in possession of the surplus in the hands of the township treasurer, and, upon the presentation to such treasurer of a certified copy of the final judgment rendered in such action, he shall pay over the same to the party recovering such judgment; and no township treasurer shall be liable to any claimant of such surplus, the right to which is contested as provided in this act, until he shall have refused to pay over such surplus, upon the production of a certified copy of a judgment as aforesaid. In any action brought pursuant to this section no other cause of action shall be joined nor shall any set-off be allowed; and if an execution issue on a judgment so rendered, it shall direct the costs only of such action to be levied by virtue thereof.

Surplus from sale of property and action for recovery of.

SEC. 39. In case any township treasurer shall neglect to give either of the bonds required, or shall die, or resign, or remove out of the township, or become unable to discharge the duties of his office, the township board shall forthwith appoint a new treasurer, who, on giving the required bonds, shall execute the duties of the office for the remainder of the year. The township clerk shall immediately notify the county treasurer of such appointment.

Appointment of treasurer in case of vacancy.

SEC. 40. In case the township treasurer shall neglect or refuse to file his bond with the county treasurer, in the manner and within the time prescribed by law, and the township board shall fail to appoint a treasurer who shall give such bond and deliver a receipt for the same to the supervisor by the tenth day of December, the supervisor shall deliver the tax roll with a warrant directed to the sheriff of the county, who shall, before he receives said tax roll, execute and deliver like bonds required of the township treasurer, and make like collections and returns, and shall be entitled to the same compensation allowed to the township treasurers, on all taxes so handed over to him for collection; and, for the purpose of collecting the same, shall be vested with all the powers conferred upon the township treasurer, and suit may be brought, on such sheriff's bond, under the same circumstances as on those of a township treasurer.

Collection of tax by sheriff.

SEC. 41. In case the township treasurer shall not collect the full amount of taxes required by his warrant to be paid into the township treasury, such portion thereof as he shall collect shall be retained by him, and paid out for the following purposes and in the following order, viz.:

Disposition of taxes by township treasurer, when full amount not collected.

First, The amount raised for school purposes, to be paid on the order of the school district officers;

Second, The amount raised for the general township purposes, to be paid on the order of the township board;

Third, The amount of the highway taxes, to be paid on the order of the commissioner of highways.

Payment of tax on one of several parcels.

Payment under protest.

Recovery of money paid for tax illegally assessed.

Payment on undivided share.

Description of property on which payment is made.

Persons having a lien on property may pay tax.

Tenant may pay tax and deduct from rent.

Receipt evidence of payment.

Payment of tax collected, to county treasurer.

SEC. 42. Any person may pay the taxes or any one of the several taxes, on any parcel of land. He may pay under protest to the township treasurer, specifying at the time, in writing signed by him, the grounds of such protest, and such treasurer shall minute the fact of such protest on the tax roll and in the receipt given. The person paying under such protest may, within thirty days, and not afterward, sue the township for the amount paid, and recover, if the tax is shown to be illegal for the reasons specified in such protest. Any person owning an undivided share, or other part or parcel, of real property assessed in one description, may pay on the part thus owned by paying an amount having the same relation to the whole tax as the part on which payment is made has to the whole parcel. The person making such payment shall accurately describe the part on which he makes payment, and the receipt given and the record of the receiving officer shall show such description and by whom paid. Any person having a lien on property may pay the taxes thereon, and the same may be added to his lien and recovered with the rate of interest borne by the lien. A tenant of real estate may pay the taxes thereon and deduct the same from his rent, unless there be an agreement to the contrary. Such payment may be made to the town treasurer while the tax roll is in his hands, or afterwards to the county treasurer or the State Treasurer. The receipt given shall be evidence of such payment.

SEC. 43. Within one week after the time specified in his warrant, the town treasurer shall pay to the county treasurer all State and county taxes collected, except that from the State and county taxes collected he may retain a sum sufficient to fill any deficiency in the sum collected for school purposes, but the amount so retained shall not exceed the total delinquent school taxes returned, and the county treasurer shall retain the amounts thus reserved out of the first moneys received by him from any township taxes.

OF THE RETURN OF DELINQUENT TAXES.

Statement of delinquent taxes on real property.

On personal property.

SEC. 44. If the township treasurer shall be unable to collect any of the taxes on his roll assessed on real property, he shall make a statement of the same, with a full and perfect description of such property with the taxes upon each parcel thereof, which statement shall be verified by the affidavit of such treasurer, that such taxes remain unpaid, and that he has not, upon diligent inquiry, been able to discover any goods or chattels liable to pay such sums whereupon he could levy the same. The township treasurer shall also make a statement showing the taxes upon personal property remaining unpaid, and the names of the persons against whom assessed, and the amount against each; and in such statement shall set forth the amount of all moneys collected by him on account of taxes, which statement shall be verified by the affidavit of such treasurer, in which he shall state in substance that the sums men-

tioned in such statement as uncollected remain unpaid; that he has not, upon diligent inquiry, been able to discover any goods or chattels belonging to the person liable to pay such sums whereupon he could levy the same; and that the amount of moneys collected by him upon such tax roll is truly stated therein.

SEC. 45. The county treasurer shall immediately compare such statements with the said tax roll, and if he finds the same to be correct, he shall add to each of them a certificate showing that he has examined and compared such statements with the said tax roll and found them correct, and shall file such statements in his office: *Provided*, That the county treasurer shall, at the time of making such comparison, and at no other time, reject any tax upon any lands which shall have been twice assessed, or upon any parcel which shall be so erroneously or defectively described that it cannot be ascertained.

County treasurer to compare statement with tax roll.

Provido.

SEC. 46. The county treasurer shall give to the township treasurer a receipt, stating the amount of moneys paid to him by such township treasurer, for which the township shall receive a credit on the books of the county treasurer, and he shall also give such township treasurer a statement of all taxes rejected by him, the amount of delinquent taxes returned, and the amount of any unpaid taxes on personal property, which receipt and statement shall be the vouchers of such township treasurer for the amounts specified therein.

Receipt of county treasurer to township treasurer, what to state, etc.

SEC. 47. The county treasurer shall thereupon endorse the fact of such settlement on the bond of the township treasurer, which endorsement shall operate as a discharge of the treasurer and his sureties from the obligation thereof, unless [that] the return of such treasurer is incorrect, in which case such bond shall continue in force, and such treasurer and his sureties shall be liable thereon for all damages occasioned by such incorrect returns; and the township treasurer shall immediately deposit his tax roll with the county treasurer, who shall file and preserve the same in his office, and which said roll, or a duly certified copy thereof, shall, for all purposes, in all courts, suits, and proceedings, be taken, held, and used as evidence, in the same manner and with like effect as the original roll. The county treasurer shall give the township treasurer a statement of all the personal taxes which remain uncollected, taken from the return of the latter, with a warrant authorizing him or his successor to collect them according to law, and thereafter the township treasurer or his successor shall have the same power to collect such taxes as under his original warrant.

Settlement with township treasurer to be endorsed on his bond, etc.

Deposit of tax roll with county treasurer.

Statement to township treasurer, of personal taxes uncollected.

SEC. 48. When any county treasurer shall receive from a township treasurer a statement of unpaid taxes, together with a list of the lands on which the same are delinquent, verified according to law, such county treasurer shall enter the same at length on the books in his office, provided for the purpose, and he shall make a transcript of all the descriptions of land returned as delinquent for unpaid taxes, except such as may have been rejected by him, which transcript shall be compared by the county clerk with the statement of the township treasurer, and, if he

Statement of unpaid taxes to entered on books in county treasurer's office, etc.

finds it to be a true transcript thereof, he shall add to it a certificate that he has found it correct.

Transcript to be forwarded to Auditor General.

SEC. 49. Such transcript, so made, compared, and certified, shall be forwarded by the county treasurer to the Auditor General, by the first day of March next after the return of such statement; but such transcript shall be receivable at any time during said month of March.

County treasurer authorized to receive amounts due for unpaid taxes.

SEC. 50. After the return of lands for unpaid taxes the county treasurer is authorized to receive the amounts due, and the board of supervisors in each county may authorize notice to be given to all delinquent tax-payers so far as known.

To issue duplicate receipts for taxes received by him, etc.

SEC. 51. The county treasurer shall issue duplicate receipts for all taxes received by him, which shall be countersigned by the county clerk, and one of said duplicates shall be left with such clerk who shall make an entry of the amount for which every such receipt was given, with the name of the person paying such tax, in a book to be provided for that purpose, and shall, on the first Monday of each month, forward all such receipts to the Auditor General in such manner as he may direct.

OF THE SALE OF LANDS, AND CONVEYANCE THEREOF.

When lands subject to sale.

SEC. 52. Any lands, upon which taxes shall remain unpaid for more than one year from the first day of July next after their return to the Auditor General as delinquent therefor, shall be subject to sale in the manner hereinafter mentioned.

Petition to circuit court in chancery for sale of lands.

SEC. 53. As soon as practicable after the first day of July in each year, the Auditor General shall prepare and file in the office of the county clerk of each county in which lands are to be sold under the provisions of this act, a petition addressed to the circuit court for said county in chancery, stating therein, by apt reference to lists or schedules annexed thereto, a description of all lands in such county upon which taxes have remained unpaid for more than one year from the first day of July after their return to the Auditor General, and the total amount of such taxes with interest computed thereon to the time fixed for the sale thereof extended separately against each parcel of land, and he shall include with and add to such total amount against each parcel sixty cents for the cost of advertising and other expenses of sale. Such petition shall pray a decree in favor of the State of Michigan against said land for the payment of the several amounts so specified therein, and in default thereof that such lands be sold. It shall be signed by the Auditor General and need not be otherwise verified, and shall be deemed equivalent to a bill in chancery to enforce the lien for such taxes, interest, and charges, averring their validity, that they have not been paid, and praying for a sale to pay such lien. Lands hereafter bid off in the name of the State and thus held, shall not be included in such petition.

Substance of petition.

Petition to be signed by Auditor General.

What lands not to be included.

Petition to be in record book. Form of record.

SEC. 54. The petition shall be in a substantial record book, with the lists of lands and taxes annexed following the same therein. Such record shall be ruled with appropriate columns, one containing a description of the lands, with columns for the

total amount of taxes, interest, and charges claimed due on each parcel of land opposite thereto; also with blank columns, one with heading, "Parts of descriptions paid before sale or withheld;" another, "By whom paid;" another, "Amount paid before sale;" another, "Amount decreed against lands;" another, "Special orders;" another, "Interest in each parcel sold;" another, "Name of purchaser;" another, "Address of purchaser;" another, "Number of certificate;" another, "Remarks." The Auditor General may add such other columns as he may find necessary. The word petition shall be construed to include the lists annexed thereto. Said record shall be called tax record. Parts of descriptions of lands upon which taxes are paid before sale, or which are withheld from sale, the amount paid on taxes before sale, the amount of taxes, interest, and charges decreed against lands, special orders made by court relating to any parcel of land or any tax, the interest in each parcel of land sold, the name of each purchaser and his address, and the number of certificate of sale shall be entered in said record under their appropriate headings, opposite to the description of lands affected thereby.

Construction of word petition.
Tax record.
What entries to be made in record.

SEC. 55. The Auditor General shall cause a copy of said petition to be published at least once in each week for three successive weeks prior to the time fixed for the hearing thereof, in some newspaper to be selected by him, and shall publish therewith for a like time a notice, by him signed, stating therein in substance that the State of Michigan has filed such petition in the circuit court for such county in chancery, referring to such copy; that it claims a decree against each parcel of land therein described for the amounts specified; that such petition will be brought on for a hearing and decree at the next term of such court, to be held at a time and place in such notice specified; that all persons interested in such lands and desiring to contest the lien claimed thereon for such taxes, or any part thereof, shall appear in said court and file with the clerk thereof their objection thereto on or before said day, and that in default thereof a decree will be taken as prayed for in such petition. In such notice he shall also state that on the first Monday of May next thereafter, the lands described in said petition, and for which an order of sale shall be made, will be sold for the taxes, interest, and charges thereon, as determined by such decree, at some convenient place in said county, to be named in said notice. The publication of the notice aforesaid shall be equivalent to personal service of notice on all persons interested in the lands specified in such petition, of the filing thereof, of all proceedings thereon and of the sale of the lands under the decree, and shall give the court jurisdiction to hear such petition, determine all questions arising thereon, and to decree a sale of such lands for the payment of all taxes, interest, and charges thereon. The circuit court in chancery shall have jurisdiction to hear, try, and determine the matters alleged in such petition, even though the amount involved therein be less than one hundred dollars.

Auditor General to publish copy of petition and notice.

What notice to state.

Publication of notice equivalent to personal service, etc.

Jurisdiction of circuit court.

SEC. 56. It shall be the duty of the prosecuting attorney to

Prosecuting attorney to prosecute or court may appoint, etc.

prosecute all such proceedings on the part of the State. If he shall refuse, neglect, or be unable to do so, the court shall appoint some competent person to take charge of and prosecute the same, who shall be paid by the county. The board of supervisors may employ some competent person to prosecute such proceedings or assist therein. Proof of the publication of the notices herein required shall be filed before any final order is made.

Objections to validity of tax to be filed in writing, etc.

SEC. 57. Any person desiring to contest the validity of any tax, shall file in writing his objections thereto with the clerk of the county, on or before the day fixed in said notice for the hearing of such petition, and shall not be allowed to make any objection not therein specified. If within the first five days after the day fixed in such notice for the hearing of such petition it shall be made to appear to the court that any person has been prevented from filing objections to any tax, without fault on his part, such further time may be granted for that purpose as may seem proper, not exceeding five days. The court shall give precedence to the hearing of such petition over all other business, shall examine, consider, and determine the matters therein stated and objections made in a summary manner without other pleadings, and make final decree thereon as the right of the case may be. The taxes specified in the petition shall be presumed legal and a decree be made therefor unless the contrary is proved. Evidence shall be

Evidence, how taken, and proceedings by the court.

taken in open court. All oral testimony shall, at the request of any person interested, be written down and filed. The court may make such orders from time to time as may be necessary to facilitate the proceedings, and shall decide all questions as to the admissibility of evidence, and the decision so made shall be final and not subject to review or appeal. If the lands of two or more persons have been assessed together, the court may, if practicable, separate the same and apportion to each parcel its just proportion of the taxes, interest, and charges. If any tax shall be found illegal, it shall be rejected. If a part of any tax shall be found illegal, such part shall be set aside, and the remaining tax shall be decreed valid. The total amount of taxes, interest, and charges, as fixed by the court, shall be entered by the register of the court opposite each parcel of land in the column of said record under the heading, "Amount decreed against lands." If the court shall make any order setting aside the taxes on any parcel of land or any part thereof, or any special order relating to any particular parcel of land or tax thereon, a brief entry of such order shall be made upon said record opposite such land or tax, which shall be signed by the judge of the court, either by his full name or initials, and such entry shall have the same effect as if made and entered as a part of the final decree.

Final decree to be made prior to sale.

At least ten days prior to the time fixed for the sale of such lands, the court shall make a final decree in favor of the State of Michigan for such taxes, interest, and charges as shall be valid, and determine the total amount thereof chargeable against each parcel of land, and shall order and decree that such several parcels of land, or so much of each as may be necessary to satisfy the

amount fixed by such decree shall severally be sold as the law directs. Such decree shall be considered as a several decree in favor of the State of Michigan against each parcel of land for each tax included therein. The court may decree such costs against a person contesting any tax as may be equitable, if the tax or any part thereof which remains unpaid is adjudged valid. Decree for costs.

SEC. 58. Such final decree shall be entered in the chancery record for recording decrees of such court, have the usual caption for decrees, and shall be substantially in the following form: Entry of and form of decree.

"In the matter of the petition of the State of Michigan for the sale of certain lands for taxes assessed thereon.

"The said petition and the matters therein stated (and the objections filed to certain taxes therein claimed, if any such objections are filed) came on to be heard, and proof of the due publication of notice of hearing of such petition having been made and filed; and after hearing all parties interested therein: It is ordered, adjudged, and decreed that the amount of taxes, interest, and charges set down in the column headed, 'Amount decreed against lands,' in the tax record of which such petition forms a part, are valid, and decree is made in favor of the State of Michigan therefor against each parcel of said land for the amount set down in said column opposite to such parcel. It is further ordered, adjudged, and decreed that said several parcels of land, or such interest therein as may be necessary to satisfy the amount herein decreed against the same, shall be severally sold as the law directs. It is further adjudged and decreed that the several special orders made by this court, and entered on such tax record, are made a part hereof, with the same effect as if entered herein." If costs are adjudged against any person contesting a tax, the decree therefor shall be in proper form and execution awarded. The decree shall be signed by the judge and countersigned by the clerk.

SEC. 59. Immediately after the entry of such decree, the county clerk shall make a certified copy thereof, and annex the same to the tax record. He shall thereupon deliver such tax record to the county treasurer, in whose office the same shall remain except as needed in the office of the county clerk. County clerk to annex certified copy of decree to tax record.

SEC. 60. If from any cause the hearing on said petition is not had on the day fixed in the notice therefor, the same shall stand continued from day to day during the term without the entry of any order of continuance, until disposed of, and if it shall for any reason be found impracticable to hear and determine the objections to all of the taxes specified in such petition within the time herein fixed for that purpose, then and in that case the court shall, within the time herein named, make a final decree as to all taxes to which no objections have been filed, and also those to which objections have been filed, which the court has then heard and passed upon. Such decree shall be signed and recorded as hereinbefore provided. The court shall proceed with the consideration of the remaining taxes embraced in such petition, and objections thereto, and as Continuation of time for hearing of petition.

soon as practicable, dispose of the same by one or more decrees and in such form as the court may determine, which shall be entered in the chancery record of decrees of such court, and the same shall describe the lands and specify the total amount of taxes, interest, and charges on each parcel thereof. The county clerk shall immediately thereafter deliver to the county treasurer a certified copy of such decree, to be kept and used as hereinbefore provided. Such copy of decree shall be annexed to the tax record and shall thereby become a part thereof. If from any cause no decree shall be made on such petition as to the taxes therein named, or any part thereof, the Auditor General shall, as soon as practicable, file a new petition for decree and sale, and proceedings thereon shall be the same and a decree and sale made as herein provided.

Appeal to the supreme court.

SEC. 61. In case a decree is given in favor of the validity of any disputed tax, and the person contesting its validity desires to appeal to the supreme court, he shall be allowed to do so on paying the amount of the decree to the county treasurer, within ten days after the date of such decree, who shall retain the same until the decision of the supreme court, and pay the same to the party interested if such tax is held invalid; if held valid, then such money shall be credited to the proper fund. By such payment the land in question shall be discharged from the lien of the tax. In case the decision is against the validity of any tax, either the county treasurer or the Auditor General shall have a right to direct an appeal therefrom to the supreme court on behalf of the State, but there shall be no sale for the tax held invalid, until such decision has been reversed or modified by the supreme court.

Proceedings to follow chancery practice.

Notice and bond on appeal, etc.

SEC. 62. The proceedings where the validity of any tax is in dispute shall, where no other provision is made herein, follow the ordinary chancery practice, and the court may allow amendments as in ordinary cases. Notice shall be given of all appeals to the supreme court, and such appeal shall be claimed, entered, and bond for costs given within twenty days after the making and entering of the decree. When the appeal is taken in behalf of the State, no bond shall be required. The judge shall, at the request of either party and on due notice, settle in proper form a case containing so much of the record and proceedings as may be necessary to the due understanding thereof by the supreme court, and if appeal shall be taken such case shall be transmitted to such court. An appeal as to the tax on any parcel shall not delay or affect the proceedings for the sale of any land on which there has been no appeal.

Sale of land by county treasurer.

SEC. 63. On the first Monday of May the county treasurer shall commence the sale of those lands mentioned in the decree upon which the amounts charged shall not have been paid, and shall continue the same from day to day (Sundays and other legal holidays excepted) until so much of each parcel shall be sold as shall be sufficient to pay such amounts. Each parcel described in the decree shall be separately exposed to sale, and the sale shall be made to the person offering to pay the amount charged against

such parcel in the decree and accept a conveyance of the smallest undivided fee simple interest therein. No greater interest in any parcel shall be sold than is sufficient to pay the amount charged thereto. If no person will offer to pay the amount charged against any parcel of land and take a conveyance of less than the entire thereof, then the whole parcel shall be sold. The sale shall be at the county seat, and at such convenient place as may be selected by the county treasurer, and shall be subject to the taxes assessed subsequent to taxes included in the decree. The county treasurer may, in his discretion, require immediate payment of any person to whom any parcel of such land shall be struck off; and in all cases where payment is not made in twenty-four hours, he shall declare the bid canceled and sell the land again; and any person to whom any parcel of land shall be so struck off, neglecting for twenty-four hours after the close of such sale to pay to the county treasurer the amount of such bid, shall forfeit to the State five times the amount of such bid, which amount may be recovered, in the name of the people of the State of Michigan, in an action of debt, in any court of competent jurisdiction; any subsequent bid of such person made at the sale may be disregarded by the treasurer. If any parcel of land cannot be sold for the taxes, interest, and charges, such parcel shall be passed over, for the time being, and shall on the succeeding day, or before the close of the sale, be re-offered; and if, on such second offer, or during such sale, the same cannot be sold for the amount aforesaid, the county treasurer shall bid off the same in the name of the State for the use of the State, county, and town in proportion to taxes, interest, and charges due each. The county treasurer shall enter in the proper columns of such tax record the interest in lands sold, the name and postoffice address of each purchaser opposite each parcel of land sold, and the word "State" opposite each parcel bid off in the name of the State. Certificates shall be given to each purchaser of the lands and interests bid off by him, stating that he will be entitled to deed on confirmation, and that if sale is not confirmed the money will be returned. All lands bid off in the name of the State shall continue liable to be taxed in the same manner as if they were not the property of the State. If from any cause the lands or any parcel thereof, advertised for sale by the Auditor General, shall not be sold as advertised, it shall be the duty of the Auditor General to cause sale to be made at such other time as he may fix for that purpose, of which notice shall be published at least three weeks prior to such day, and such notice shall contain a description of the lands and the amount claimed thereon. The sale and all proceedings thereon shall be the same as if made on the day first fixed therefor.

SEC. 64. As soon as possible after the conclusion of any sale, and within twenty days after the day named in the notice for the commencement thereof, the county treasurer shall make and file with the clerk of the court a report of such sale, therein referring to such tax record for the particulars thereof. All sales shall stand confirmed unless objections thereto are filed within eight days after

Report of sale by
county treasurer
to clerk of court,
etc.

When sale to
stand confirmed.

soon as practicable, dispose of the same by one or more decrees and in such form as the court may determine, which shall be entered in the chancery record of decrees of such court, and the same shall describe the lands and specify the total amount of taxes, interest, and charges on each parcel thereof. The county clerk shall immediately thereafter deliver to the county treasurer a certified copy of such decree, to be kept and used as hereinbefore provided. Such copy of decree shall be annexed to the tax record and shall thereby become a part thereof. If from any cause no decree shall be made on such petition as to the taxes therein named, or any part thereof, the Auditor General shall, as soon as practicable, file a new petition for decree and sale, and proceedings thereon shall be the same and a decree and sale made as herein provided.

Appeal to the supreme court.

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Proceedings to follow chancery practice.

Notice and bond on appeal, etc.

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Sale of land by county treasurer.

SEC. 63. On the first Monday of May the county treasurer shall commence the sale of those lands mentioned in the decree upon which the amounts charged shall not have been paid, and shall continue the same from day to day (Sundays and other legal holidays excepted) until so much of each parcel shall be sold as shall be sufficient to pay such amounts. Each parcel described in the decree shall be separately exposed to sale, and the sale shall be made to the person offering to pay the amount charged against

such parcel in the decree and accept a conveyance of the smallest undivided fee simple interest therein. No greater interest in any parcel shall be sold than is sufficient to pay the amount charged thereto. If no person will offer to pay the amount charged against any parcel of land and take a conveyance of less than the entire thereof, then the whole parcel shall be sold. The sale shall be at the county seat, and at such convenient place as may be selected by the county treasurer, and shall be subject to the taxes assessed subsequent to taxes included in the decree. The county treasurer may, in his discretion, require immediate payment of any person to whom any parcel of such land shall be struck off; and in all cases where payment is not made in twenty-four hours, he shall declare the bid canceled and sell the land again; and any person to whom any parcel of land shall be so struck off, neglecting for twenty-four hours after the close of such sale to pay to the county treasurer the amount of such bid, shall forfeit to the State five times the amount of such bid, which amount may be recovered, in the name of the people of the State of Michigan, in an action of debt, in any court of competent jurisdiction; any subsequent bid of such person made at the sale may be disregarded by the treasurer. If any parcel of land cannot be sold for the taxes, interest, and charges, such parcel shall be passed over, for the time being, and shall on the succeeding day, or before the close of the sale, be re-offered; and if, on such second offer, or during such sale, the same cannot be sold for the amount aforesaid, the county treasurer shall bid off the same in the name of the State for the use of the State, county, and town in proportion to taxes, interest, and charges due each. The county treasurer shall enter in the proper columns of such tax record the interest in lands sold, the name and postoffice address of each purchaser opposite each parcel of land sold, and the word "State" opposite each parcel bid off in the name of the State. Certificates shall be given to each purchaser of the lands and interests bid off by him, stating that he will be entitled to deed on confirmation, and that if sale is not confirmed the money will be returned. All lands bid off in the name of the State shall continue liable to be taxed in the same manner as if they were not the property of the State. If from any cause the lands or any parcel thereof, advertised for sale by the Auditor General, shall not be sold as advertised, it shall be the duty of the Auditor General to cause sale to be made at such other time as he may fix for that purpose, of which notice shall be published at least three weeks prior to such day, and such notice shall contain a description of the lands and the amount claimed thereon. The sale and all proceedings thereon shall be the same as if made on the day first fixed therefor.

SEC. 64. As soon as possible after the conclusion of any sale, and within twenty days after the day named in the notice for the commencement thereof, the county treasurer shall make and file with the clerk of the court a report of such sale, therein referring to such tax record for the particulars thereof. All sales shall stand confirmed unless objections thereto are filed within eight days after

Report of sale by
county treasurer
to clerk of court,
etc.

When sale to
stand confirmed.

Practice with
reference to set-
ting sale aside.
Proviso.

the time limited for filing such report without the entry of any order or further notice. The practice with reference to setting aside such sale shall be the same so far as applicable as in a sale in equity on the foreclosure of mortgages: *Provided*, No sale shall be set aside for inadequacy of price, except upon payment of amount bid upon such sale with interests and costs: *And provided further*, That no sale shall be set aside after confirmation, except in cases where the taxes were paid, or the property was exempt from taxation. In such cases the owner of such lands may move the court at any time within one year after he shall have notice of such sale, to set the same aside, and the court may so order upon such terms as may be just: *Provided also*, That no sale shall be set aside after the purchaser, his heirs or assigns, has been in actual possession of the lands for five years. If a sale is set aside, the county treasurer shall refund to the purchaser the amount of his bid with interest at seven per cent.

Proviso.

County treasurer
to make full re-
port of sales to
Auditor General.

SEC. 65. As soon as sales are confirmed, the county treasurer shall make full reports of the same to the Auditor General, giving a description of the property sold, the amounts for which the same was sold, and the names of the purchasers, and thereupon the Auditor General shall execute deeds to the purchasers, in such form as shall be determined by him. No subscribing witnesses or certificate of acknowledgement shall be necessary to any such deed, and it shall be entitled to record in the office of the register of deeds of the proper county in the same manner and with like effect as other deeds duly witnessed, acknowledged, and certified. Such deeds shall convey an absolute title to the land sold, and be conclusive evidence of title in fee in the grantee, subject, however, to all taxes assessed and levied on such lands subsequent to the taxes for which the same was bid off, and the deed shall so state. The court may, on application, put the purchaser in possession of the premises by writs of assistance.

Lands bid off by
State to be re-
sold, etc.

Statement to
county treas-
urer.

SEC. 66. All lands that may hereafter be bid off, in the name of the State for taxes, which have not been disposed of prior to any annual sale, shall be again offered at such annual sale. The Auditor General shall furnish to each county treasurer a statement of all such lands in his county. Such statement shall exhibit the amount of the purchase price of each parcel, together with interest thereon at the rate of one per cent per month from the time the lands were bid in, to the day fixed for the annual tax sale in the year in which they are to be offered. The Auditor General shall cause to be published for three weeks successively next previous to the day fixed for the annual tax sale, a notice that the lands described in such statement will be sold at public auction by the treasurer of the county in which such lands are situated, at the time and place designated for such annual sale. Such notice shall not describe the lands or state the amount of taxes and charges thereon.

Notice of tax
sales.

Sale and certi-
ficate to purchas-
ers.

SEC. 67. At the time designated in the notice, such county treasurer shall offer the lands embraced in such statement for sale to the highest bidder; but no bid shall be accepted unless equal to

the amount chargeable against such land as set forth in said statement. The county treasurer shall, on payment of the purchase money issue certificates of sale to the purchasers in such form, and make such returns to the Auditor General, as shall be prescribed by him, and shall also transmit the moneys received to the State Treasurer, to be disposed of as taxes collected.

SEC. 68. All lands purchased in the name of the State at any tax sale shall be subject to sale at any time thereafter (except as herein provided) by the Auditor General for the purchase price and interest at the rate of one per cent for each month or part of a month. Deeds shall be executed by the Auditor General to the purchaser on a certificate from the State Treasurer that he has paid the amount required. No sale of such lands shall be made by the Auditor General after he has sent the list of State lands to the county treasurer, until he receives returns of the sales made by such officer. Every such sale shall be subject to all taxes assessed and levied on such lands subsequent to the taxes for which the land was bid off in the name of the State, and the deed shall so state; such deed shall have the same force and effect as a deed made for lands sold at the annual sales as hereinbefore provided: *Provided*, That such deed shall not be executed until the purchaser shall pay all delinquent taxes on such lands returned to the office of the Auditor General after the first day of January, eighteen hundred and eighty-two.

Lands purchased by State may be sold by Auditor General, etc.

Sale to be subject to subsequent taxes.

Proviso.

SEC. 69. The notices herein required shall be published in some paper of the county in which the land is situated, if there be any such paper in general circulation and which was established two months at least before the first day of July preceding such publication. If there be no such paper, then one having the same essentials and published in an adjoining county, shall be chosen. If there be no such paper in the county where the land lies, nor in an adjoining county, or if the proprietor of such paper refuses or neglects to publish the notices, the Auditor General may select some other paper. The cost of such notices shall be paid by the State on the warrant of the Auditor General, not exceeding thirty cents for each parcel of land advertised. The publisher of such paper shall furnish the proper county treasurer and Auditor General each with two copies of each issue containing such notices, and it shall be the duty of such Auditor General and treasurer to carefully examine the notices published and see that they are correct. Any person familiar with the facts may make an affidavit as to the publication required. The Auditor General shall not pay for any such publication until satisfied that it has been made according to law.

Where notice to be published.

Cost of notice to be paid by State, etc.

SEC. 70. All lands heretofore assessed or returned as delinquent for non-payment of taxes thereon upon which no sale has been made, shall be sold under the provisions of this act, in the same manner and with like effect as if assessed and returned as herein provided, and the same presumptions of regularity and legality shall apply thereto.

Lands heretofore assessed to be sold under provisions of this act.

OF ACCOUNTS AND THE SETTLEMENT THEREOF.

Adjustment and settlement with the State, county, and township.

SEC. 71. The accounts between the State, the county, and each township shall be adjusted on the basis of crediting and paying to each the taxes collected for each, with interest thereon. The county treasurer shall, on the first days of January, April, July, and October in each year, make a statement of the accounts between his county and the State, as they appear from the books and vouchers in his office, and render the same to the Auditor General. At the same time he shall pay over to the State Treasurer all moneys in the county treasury collected for State taxes assessed in the several townships of his county. The county treasurer, at the time of rendering his accounts to the Auditor General, shall also make a statement of the accounts between the county and each of the townships therein respectively, and render the same to the township treasurer of the proper township. At the same time he shall pay over to the township treasurer the amount of all moneys in the county treasury belonging to such township, and notify the township clerk thereof. The Auditor General, on the first days of January, April, July, and October in each year, shall make a statement of the account between the State and each county respectively, and render the same to the county treasurer of the proper county, and draw his warrant on the State Treasurer payable to the county treasurer for all moneys in the State treasury collected for county, township, school, and highway purposes for the several townships of such county, and also all other moneys in the State treasury belonging to such county, and transmit such warrant to the county treasurer with the statement aforesaid, and notify the county clerk thereof.

List to be furnished monthly by Auditor General.

SEC. 72. The Auditor General shall once in each month transmit to the treasurer of each county lists of lands therein upon which the taxes have been paid to the State Treasurer, and also list of the lands bid in the name of the State, which have been sold during the preceding month, and upon receiving such lists the county treasurer shall make the proper entries showing such payment or sale. Where a sale has been made by the Auditor General the county treasurer shall note the fact upon the tax record.

Interest on unpaid taxes.

SEC. 73. To all taxes unpaid on the first day of February next after their assessment there shall be added interest at the rate of one per cent for every month or part of a month during which such taxes remain unpaid, and to all taxes returned to the county treasurer there shall also be added a collection fee of four per cent. Such interest and collection fee shall be collected with such taxes and paid to the State, county, and township in proportion to their several rights therein. No other charges shall be added to any taxes voluntarily paid either to the township treasurer, the county treasurer or the State Treasurer, except costs of judicial proceedings hereinafter mentioned: *Provided*, That when by the provisions of the charter of any city or village, a collection fee has been included with the taxes, then only such addition shall be made thereto as shall make the collection fee four per cent.

Provided.

SEC. 74. All compensation of officers in the assessment and collection of taxes in townships and in the return of delinquent taxes to the county treasurer, except fees collected by township treasurers on their tax rolls, shall be paid by the township. All compensation of county officers and expense incurred by them under the provisions of this act shall be paid by the county, and the compensation of all State officers and expenses by them incurred or paid shall be paid by the State, expenses made by the State officers shall be audited by the Auditor General and paid out of the general fund.

Compensation for assessing and collecting, how paid.

SEC. 75. All losses that may be sustained by the default of any township officer in the discharge of any duty imposed by this act, shall be chargeable to such township. All losses by default of any county officer shall be chargeable to such county, and all losses by default of any State officer shall be chargeable to the State.

To whom losses chargeable.

MISCELLANEOUS PROVISIONS.

SEC. 76. The Commissioner of the State Land Office shall, during the month of March in each year, furnish to the several county treasurers a list of all part-paid State lands, and also of all licensed homestead lands that have been licensed for a term of five years and over, and upon which patents have not been issued, together with the date of each license and the name of the licensee, in their counties respectively and such treasurers shall, on or before the tenth day of April next thereafter, cause to be delivered to the supervisor of each township affected thereby an accurate description of all such lands in his township, with the names of the persons holding the same.

Commissioner of Land Office to furnish lists of part-paid and homestead lands

SEC. 77. Every county treasurer shall, before entering upon the duties of his office, execute to the Auditor General a bond, in such sum as the said Auditor General shall direct, with three or more sureties, to be approved by the prosecuting attorney, judge of probate, and county clerk of the proper county, or any two of them and the Auditor General, conditioned that such treasurer, his deputy, and all persons employed in his office, shall render a just and true account of all moneys received by him or them belonging to the State, and that he or they shall faithfully and promptly pay to the State Treasurer all such moneys received as aforesaid according to law, which bond shall be filed in the office of the Auditor General. Whenever the Auditor General shall deem proper, he may require of the county treasurer a new bond with surety or sureties to be approved as aforesaid, and for such sum as he may deem necessary, and if any county treasurer from whom a new bond shall be so required shall not execute such bond within ten days after he shall have received notice of such requirement, such failure may be deemed sufficient cause for the removal from office of such treasurer.

County treasurer's bond to Auditor General.

New bond

SEC. 78. In case the said county treasurer shall refuse or neglect to execute and file any such bond at the time and in the manner aforesaid, the Auditor General shall employ, in behalf of the State, some other person to conduct the sales of lands delinquent for

When Auditor General may employ persons to conduct sales.

taxes, and to receive payment therefor, under his direction, upon such person executing and filing with the said Auditor General a similar bond, with sureties as above mentioned, to be by him approved, conditioned for the faithful and prompt payment to the State Treasurer of all moneys which may come into his hands as the proceeds of such sale or otherwise, and a reasonable compensation for the services of such person shall be allowed and paid out of said proceeds.

When Auditor General may withhold land from sale, etc.

SEC. 79. If the Auditor General shall discover before the sale of any lands, as aforesaid, that for any reason they should not be sold, he shall cause the same to be withheld from sale; and if the error originated with the township or county officers, the amount of such taxes shall be charged against the county from which the same were returned; if such error was made by township officers, the amount thereof shall be charged by the county treasurer to the township in which such error occurred. If there has been a change in the boundaries of the county or town in which the lands are situated after the return of such taxes, such rejected taxes shall be charged to the county to which the lands belong at the time of such rejection.

Auditor General to furnish county treasurer statement of rejected taxes.

SEC. 80. The Auditor General shall prepare and forward to the county treasurer a statement of such rejected taxes, and a description of the lands upon which the same were assessed; and such county treasurer shall lay the same before the board of supervisors at their next session thereafter, and if such taxes shall have been rejected or charged back by the Auditor General, except for the reason that such land was not subject to taxation at the time of the assessment for such taxes, or that the taxes thereon had been paid, or that there had been a double assessment thereof, the board of supervisors shall cause the same to be reassessed upon the same land, and collected with the taxes of the then current year, and in the same manner.

Re-assessment.

SEC. 81. If such taxes cannot be properly reassessed upon the same lands, the board of supervisors shall cause the same to be reassessed upon the taxable property of the proper township.

Board of supervisors to furnish list of taxes rejected, etc., to Auditor General.

SEC. 82. It shall be the duty of the board of supervisors to furnish to the Auditor General a list of all taxes which shall have been rejected or charged back to their county by him, upon lands which shall have been detached from such county subsequent to the time when such taxes were assessed, and the Auditor General shall thereupon credit to such county the amount which he may have so charged back, and charge the same to the county in which such lands may be then situated: *Provided*, Such taxes shall not have been previously paid or reassessed.

Petition to Auditor General for rejection of taxes.

SEC. 83. Any person having an interest in land returned to the Auditor General for unpaid taxes may, at any time before the filing of petition for sale, file with the Auditor General a petition asking that the taxes assessed to said lands be rejected as illegal. The petition shall fully set forth the grounds of such illegality, and shall be verified. The Auditor General may take any necessary step to ascertain the truth of the matters stated in such petition, and

may, in a case where the tax was paid, or the land twice assessed and once paid, or the land not liable to assessment, reject the same.

SEC. 84. No tax assessed upon any property, or sale therefor, shall be held invalid on account of any irregularity in any assessment, or on account of any assessment or tax roll not having been made or proceeding had within the time required by law, or on account of the property having been assessed without the name of the owner, or in the name of any person other than the owner, or on account of any other irregularity, informality, or omission, or want of any matter of form or substance in any proceeding that does not prejudice the rights of the person whose property is taxed; and all proceedings in assessing and levying taxes, and in the sale and conveyance therefor, shall be presumed to be legal until the contrary is affirmatively shown. All records, statements, and certificates herein provided for shall be *prima facie* evidence of the facts therein set forth. The absence of any record of any proceeding, or the omission of any mention in any record of any vote or proceeding, or of mention of any matter in any statement or certificate that should appear therein under the provisions of any law of this State, shall not affect the validity of any proceeding, tax, or title depending thereon, provided the fact that such vote or proceeding was had or tax authorized is shown by any other record, statement, or certificate made evidence by the terms of this act or any other law of this State. No tax, or sale of property for any tax, shall be rendered or held invalid by showing that any record, statement, certificate, affidavit, paper, or return cannot be found in the proper office; and unless the contrary is affirmatively shown, the presumption shall be that such record was made and such certificate, statement, affidavit, paper, or return was duly made and filed. Where any statement, certificate, or record is required to be made or signed by a school district board or a township board, such statement, certificate, or record may be made and signed by the members of such boards, or a majority thereof, and it shall not be necessary that other members be present when each signs the same. The provisions of this section shall not be construed to authorize any showing impeaching the validity of any deed executed by the Auditor General under the provisions of this act, but such deeds shall be held absolute and conclusive as herein provided.

Taxes not to be held invalid on account of irregularities.

SEC. 85. In any suit or proceeding to enforce or set aside any tax, such tax shall be held illegal only for one of the following reasons: For what reason tax to be held illegal.

First, That no law authorizes such tax.

Second, That the person or persons appointed to decide whether a tax shall be raised under a given law have acted without jurisdiction, or have not imposed the tax in question.

Third, That the person or property assessed was exempt from the taxation in question, or was not assessed.

Fourth, That the tax has been paid.

Fifth, That the supervisor or board of review, in assessing a person or property for taxation, or in the apportionment of the tax to the person or property in question, acted fraudulently.

If any such illegality, omission, or fraud affects the amount of

the tax only, the tax shall be sustained so far as the same is just and legal.

All deeds may be given in evidence.

SEC. 86. In the prosecution or defense of any action or proceeding by any person holding or claiming land under any deed or deeds of lands purchased for delinquent taxes, the party so claiming, under and by virtue of such purchase may show his title to said land and premises, whether the same was derived under one or more purchases, and may give in evidence any and all deeds of conveyance or other evidence of such purchases as aforesaid, which he may at any time have received, and may claim title under any or all of them.

Prosecuting attorney to give counsel to treasurer, etc.

SEC. 87. It shall be the duty of the prosecuting attorney of each county to give his counsel and advice to the county treasurer, the township treasurers, and the supervisors of the county, whenever they or any of them may deem it necessary, for the proper discharge of the duties imposed upon them in this act, free of charge.

Deed in case of death of purchaser.

SEC. 88. In all cases of sale of land for taxes, if the purchaser or his assigns shall die before a deed shall be executed on such sale, the deed may be executed by the Auditor General, to and in the name of the deceased person, if such deceased person being still alive would be entitled to a deed; which deed shall vest the title in the heirs or devisees of such deceased person, in the same manner liable to like claims of creditors and other persons as if the same had been executed to such deceased person immediately previous to his death, or the executor or administrator may assign the certificate of purchase, and the deed may issue to the assignee thereof, and in like cases which have heretofore occurred, the same rule shall apply, and all deeds heretofore issued in the name of any person deceased who if living at the time of the execution thereof would have been entitled thereto, shall have like effect as above provided.

Return of county treasurer to land office.

SEC. 89. The county treasurer shall at the same time when he makes his return of delinquent lands to the Auditor General make a similar return to the State Land Office of all homestead and part-paid State lands, the fee of which is in the State, the taxes upon which have not been collected, with a statement of the amount thereof. The Commissioner of the State Land Office shall provide suitable books, and enter in the same the description of every parcel of land so returned to his office, and the taxes thereon. The person holding such interest in any parcel of said lands shall on or before the first day of July following such return pay to the State Treasurer the taxes assessed thereon with interest at the rate of one per cent per month from the first day of February last preceding; and in default thereof the certificate of purchase of such parcel shall become void and such land shall be subject to sale and redemption in the same time and manner as lands forfeited for non-payment of interest; and no patent shall be made of such lands until all taxes thereon are paid.

Duty of Commissioner of Land Office.

SEC. 90. The Commissioner of the State Land Office shall, on or before the first day of May and November in each year, make out and furnish to the Auditor General a statement containing a description of the lands upon which the taxes have been paid, and

Statement to be furnished by Commissioner of Land Office to Auditor General.

the amount of such payments, and shall at the same time transmit to each county treasurer a copy of such statement so far as the same relates to his county. The Auditor General shall credit to each county its proper part of such taxes, and the county treasurer shall credit each township with its share of such amount.

SEC. 91. If any person dispossessed of lands purchased in pursuance of the provisions of this act shall have made improvements thereon, he shall be entitled to recover what such improvements are worth, and shall have a lien on such lands therefor, and may enforce the same by bill in equity where no other provision is made by law.

Payment for improvements on land.

SEC. 92. In case of the organization of a new county after the time for making the assessment roll, and prior to the return of the township treasurer, such new organization shall in no way affect the assessment, collection or return of taxes for that year, or any lands attached to the new county. No division of a township after the time for making the assessment roll, and prior to the return of the township treasurer, shall in any way affect the assessment, collection, and return of such taxes; but such taxes shall be assessed, collected, and returns made as though there had been no such division. If lands are detached from any county after the taxes thereon are returned to the Auditor General, and any such taxes are afterward rejected or set aside, the county from which they are detached shall receive credit, and the county to which they are attached shall be charged, as may be proper under the provisions of this act.

Collection of tax when new county organized or township divided.

SEC. 93. If any certificate of sale shall be lost or destroyed, on satisfactory proof being made, the county treasurer may make a new certificate showing the sale. It shall have the same force and effect as the first certificate. The Auditor General shall execute a second deed of lands conveyed, as herein provided, in all cases in which he shall be satisfied, by sufficient proof, that the original deed and record thereof has been lost or destroyed, which said deed shall declare upon its face that it is a second deed, and shall be executed to the same party only as the first and shall recite the loss or destruction of the former deed and its date if possible. Such deed shall inure to the benefit of the grantee in the first deed, his heirs or assigns, as the case may be, and shall have the same force and effect as said first deed. Before the execution of such deed the party applying therefor shall pay to the State Treasurer the sum of fifty cents.

New certificate or deed to supply loss.

SEC. 94. The taxes on any lands returned as delinquent may be paid to the county treasurer at any time prior to the day of sale, or to the State Treasurer at any time before the petition for sale thereof shall be sent to the county treasurer, and not thereafter. After such petition is filed with the register payment of part of the taxes therein specified shall not stay proceedings thereon to enforce payment of such taxes as are not paid. After decree and before sale, the total amount as fixed by such decree may be paid, but a less sum shall not be received.

Payment of delinquent taxes to county treasurer or State Treasurer.

SEC. 95. This act shall be applicable to all cities and villages where not inconsistent with their respective charters. With such

Act to apply to cities and villages.

- exception the provisions herein as to supervisors, township treasurers, and boards of review shall include all assessing and collecting officers and all boards whose duty it is to review any assessment roll. The word township may include city, ward, or village. When by the charter of any city or village, delinquent taxes or assessments are returned with other taxes to the county treasurer, such city or village shall not be entitled to payment of or credit for the same until the money has been received, notwithstanding anything in their respective charters to the contrary. *Provided*, That in any incorporated city, the charter of which does not provide for a board of review, such board shall consist of the several supervisors or other officers making the assessment, the city attorney, and additional members to be appointed by the common council (who shall not be aldermen), equaling the number of supervisors or assessing officers. The session of said board of review shall be held at the council room on the same days as designated for the meeting of the township board of review, and the proceedings thereof conducted as near as may be in the same manner. Said board shall elect a chairman and clerk, who shall certify to the correctness of the several assessment rolls when completed, substantially as the form prescribed in section nineteen of the act. The appointed members of said board of review shall take the constitutional oath of office, which shall be filed in the office of the city recorder or clerk.
- Construction of word "township."** SEC. 96. The authorities of any city or village, the charter of which does not so provide, may provide by ordinance for the return of all unpaid taxes on real property to the county treasurer in the same manner and with like effect as returns by township treasurers.
- Unpaid taxes of cities or villages.** The taxes thus returned shall be collected in the same manner as other taxes returned.
- How collected.** SEC. 97. The authorities of any city or village which, by its charter, has the right to sell lands for unpaid taxes or assessments, may provide for judicial sale of such lands. Such sale shall be made on petitions filed in behalf of the city or village in interest, and shall conform, as near as practicable, to the provisions as to sale in this act.
- Judicial sale of land in cities or villages.** SEC. 98. When an officer is authorized to do any act, his deputy shall have the same authority, and such officer shall be responsible for the acts of his deputy.
- Deputies authorized to act.** SEC. 99. Supervisors shall be allowed, for their services in assessing property, making tax rolls and for extending taxes thereon, at the rate of two dollars for each day actually and necessarily spent in making the same, the members of the board of review shall be paid at the same rate per day for each day actually and necessarily spent in the attendance upon the board, the accounts for such services shall be verified, audited, and paid as other township expenses. County officers shall be paid for services under this act by salary or otherwise as the board of supervisors shall determine. *Provided*, That the city of Detroit shall be exempted from the provisions of the last clause of this section, and the common council shall have power to fix and determine the compensation of the city assessor thereof. *Provided further*,
- Compensation of supervisors and boards of review.**

That the township of Kalamazoo shall also be exempted from the provisions of the first clause of this section, and the township board of said township shall have power to fix and determine the compensation of the supervisor of said township, but the amount paid for such services shall not exceed the sum of one thousand dollars per annum.

SEC. 100. The township treasurer, with the consent of the township board, may appoint a deputy who shall possess all the powers and may perform all the duties of the treasurer. Such township treasurer and his bondsmen shall be liable for the acts and defaults of such deputy treasurer. Such deputy shall be paid by the treasurer.

Township treasurer may appoint deputy, etc.

SEC. 101. If at any time it shall be discovered that the treasurer of any township has received the tax assessed upon property which he has returned delinquent, the supervisor shall have power, and he is hereby required to collect the same, in the name of his township, from such treasurer or his sureties, together with interest and charges.

Collection of taxes paid, but returned delinquent.

SEC. 102. No injunction shall issue to stay proceedings for the assessment or collection of taxes under this act.

Injunction not to stay proceedings.

SEC. 103. If any supervisor or other assessing officer of any township or city shall willfully assess any property at more or less than what he believes to be its true cash value, he shall be guilty of a misdemeanor, and on conviction thereof he shall be punished by imprisonment in the county jail not exceeding one year, or by fine not exceeding three hundred dollars, at the discretion of the court. If any board whose duty it is to review the assessments of an assessing officer shall willfully assess property at more or less than its cash value, the members voting in favor of such action shall severally be guilty of a misdemeanor, and on conviction shall be punished by imprisonment in the county jail not exceeding six months, or by fine not exceeding three hundred dollars, at the discretion of the court.

Penalty for assessing property at more or less than cash value.

SEC. 104. If any officer to whom any tax is paid shall fail to make proper entry and return of such payment, he shall be liable to any person injured for the full amount of the injury, and if such failure is willful he shall be guilty of a misdemeanor, and shall, on conviction thereof, be punished by imprisonment in the county jail not more than six months, or by fine not more than three hundred dollars.

Penalty for failing to make returns of payment of tax.

SEC. 105. Any person who, under any of the proceedings required or permitted by this act, shall willfully swear falsely, shall be guilty of perjury and subject to its penalties.

False swearing perjury.

SEC. 106. Any officer who shall willfully neglect or refuse to perform any of the duties imposed upon him by this act shall, when no other provision is made herein, be guilty of a misdemeanor, and on conviction thereof shall be punished by imprisonment in the county jail not exceeding six months, or by fine not exceeding three hundred dollars, in the discretion of the court, and shall be liable to any person injured thereby to the full extent of the injury sustained.

Penalty for willful neglect to perform official duty.

Penalty for neglect to file list of stockholders in banks.

SEC. 107. If the cashier of any bank shall willfully neglect or refuse to make and file, in the office of the county clerk, a list of the names of the stockholders, the amount of stock held by each, and their respective residences, as provided in this act, or shall willfully make and file any false entry or statement in any such list, he shall be guilty of a misdemeanor and on conviction be punished by fine not exceeding three hundred dollars.

Auditor General to furnish blanks, etc.

SEC. 108. It shall be the duty of the Auditor General to furnish in due season to the several county clerks, at the expense of the State, all blanks and record books made necessary by this act.

Auditor General to furnish copies of act.

SEC. 109. The Auditor General shall, from time to time, whenever he shall find it necessary, cause to be printed at the expense of the State, a sufficient number of copies of this act, with such forms of proceeding under the same as may be necessary and proper, to furnish one copy to each supervisor, township treasurer, township clerk, and county clerk, and three copies to each county treasurer, and shall transmit to each county treasurer, at the expense of the county, a sufficient number for such county; and every county treasurer receiving such copies shall immediately transmit to the township clerk of each township five copies, to be distributed by him to the officers entitled thereto.

This act is ordered to take immediate effect.

Approved March 14, 1882.

SPECIAL LAWS RELATIVE TO TAXES.

[Act No. 198, page 532, Laws of 1873.]

AN ACT to revise the laws providing for the incorporation of railroad companies, and to regulate the running and management, and to fix the duties and liabilities of all railroad and other corporations owning or operating any railroad in this State.

* * * * *

ARTICLE III.

SECTION 3. Every company formed under the provisions of this act shall, on or before the first day of July in each year, pay to the State Treasurer, on the statement of the Auditor General, an annual tax upon the gross receipts of said company, computed in the following manner, viz.: Upon all gross receipts not exceeding four thousand dollars in amount per mile of road actually and regularly operated for the conveyance of passengers and freight, two per cent of such gross earnings; upon such gross receipts in excess of four thousand dollars per mile so operated, three per cent thereof; which amount or tax shall be in lieu of all other taxes upon the property of such companies, *except such real estate as is owned and can be conveyed by such corporation under the laws of this State and not actually occupied in the exercises of its franchises, and not necessary or in use in the proper operation of its road; but such real estate so excepted shall be liable to taxation in the same manner, for the same purposes, and to the same extent, and subject to the same conditions and limitations as to assessment for taxation, to taxation, and to the collection and return of taxes thereon, as is other real estate in the several townships within which the same may be situated.*

Pay specific tax.

In lieu of other taxes.
Exception.

Real estate excepted, liable to taxation same as other real estate.

* * * * *

[Sections 1189, 1190, and 1191 C. L., 1871.]

AN ACT authorizing the supervisors of the several towns in the Upper Peninsula to assess and collect [the State] taxes upon all mining companies' real estate, or other property.

(1189.) SECTION 1. *The People of the State of Michigan enact,* That the several supervisors of the different townships in the counties in the Upper Peninsula, be and are hereby authorized and

Supervisor to tax property of mining companies.

Penalty for neglect to file list of stockholders in banks.

SEC. 107. If the cashier of any bank shall willfully neglect or refuse to make and file, in the office of the county clerk, a list of the names of the stockholders, the amount of stock held by each, and their respective residences, as provided in this act, or shall willfully make and file any false entry or statement in any such list, he shall be guilty of a misdemeanor and on conviction be punished by fine not exceeding three hundred dollars.

Auditor General to furnish blanks, etc.

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This act is ordered to take immediate effect.

Approved March 14, 1892.

SPECIAL LAWS RELATIVE TO TAXES.

[Act No. 198, page 532, Laws of 1873.]

AN ACT to revise the laws providing for the incorporation of railroad companies, and to regulate the running and management, and to fix the duties and liabilities of all railroad and other corporations owning or operating any railroad in this State.

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AN ACT authorizing the supervisors of the several towns in the Upper Peninsula to assess and collect [the State] taxes upon all mining companies' real estate, or other property.

(1189.) SECTION 1. *The People of the State of Michigan enact,* That the several supervisors of the different townships in the counties in the Upper Peninsula, be and are hereby authorized and

Supervisor to tax property of mining companies.

required to assess and collect, in the same manner that taxes are assessed on other property, the State taxes upon all real and personal property belonging to any mining corporation or association formed under the general mining laws of this State, that are not actually carrying on and engaged in the business of mining.

Mining companies to pay State tax on excess of real estate over 640 acres.

Companies to file description of lands with county clerk.

Duty of supervisor.

Proviso.

Repeal.

(1190.) SEC. 2. All mining corporations organized under the general mining laws of this State, and those organized under special acts of the Legislature, prior to the adoption of the Constitution of this State, or those that may be hereafter organized under the general mining laws, that are actually engaged in carrying on the business of mining, shall pay a State tax upon all their real estate that exceeds in quantity six hundred and forty acres of land; and to entitle any corporation to the exemption from taxation of a quantity of lands, not exceeding six hundred and forty acres, they shall file in the county clerk's office of their respective counties a full and complete description of said land, and accompanying said description with a map and survey of the same. The supervisors of the several townships in which any of said lands belonging to any mining corporation may be located, are hereby authorized and required to assess the State tax on all the lands belonging to such mining corporations, not herein exempt: *Provided*, That nothing in this act shall release any mining corporation or association from paying any specific tax now provided by law.

(1191.) SEC. 3. All acts or parts of acts contravening the provisions of this act are hereby repealed.

SEC. 4. This act shall take immediate effect.

Approved March 15, 1861.

[Act No. 78, page 89, Laws of 1873.]

AN ACT to provide for the taxation of copper for county and township purposes.

Corporations, etc., mining copper, to deliver to supervisor a statement when.

SECTION 1. *The People of the State of Michigan enact*; That every corporation, partnership, or person engaged in the business of mining or smelting copper, or any person, partnership, or corporation owning or holding such copper in the Upper Peninsula, shall, on or before the first Monday of May in each year, deliver to the supervisor or other assessing officer of each township, village, or city in which such corporation, partnership, or person had, on the twenty-fifth day of April preceding, any copper, whether smelted or unsmelted, in their possession or under their control a true and correct statement, specifying,

What to contain.

First, The amount in weight of such copper, and whether smelted or unsmelted;

Second, Its cash value;

Third, The township in and the premises upon which it is stored;

Fourth, The name and residence of the owner of the same, or if belonging to a corporation, the name and place of business of such corporation.

SEC. 2. Such statement shall be verified by the oath of the superintendent or agent of such corporation, or partnership, or of some member thereof, or of said person, or of some person having full knowledge of the facts therein stated; and any person who shall make an affidavit as above required, shall be liable to the penalties of perjury for any false statement made in such affidavit with intent to defraud, upon conviction thereof before a court having jurisdiction of the offense: *Provided*, That such copper shall not be assessed in other township than as herein provided.

How verified.

Penalty for false statement.

Provido.

SEC. 3. Every such corporation willfully neglecting or refusing to furnish such statement, shall, if within this State, forfeit its franchises, and if without this State, shall no longer be permitted to do business herein; and the members of such partnership, or such person so neglecting or refusing to make such statement, shall, if within this State, forfeit the sum of three hundred dollars in the nature of a penalty, which shall be sued for and recovered by the prosecuting attorney of the proper county, for the use and benefit of the people of the State of Michigan, as provided by chapter two hundred and sixteen of the compiled laws of eighteen hundred and seventy-one, and if such partnership or person shall be without the State, then the superintendent or agent of such partnership or person, and managing said business, shall in like manner forfeit said sum of three hundred dollars, to be collected in like manner as above provided.

Penalty for neglect to make statement.

Forfeiture for neglect to make statement.

SEC. 4. Every supervisor, or other assessing officer, upon receiving any such statement from which it shall appear that there was in his township, village, or city on said twenty-fifth day of April, any copper, whether smelted or unsmelted, belonging to any resident of or corporation having its office in this State, shall at once transmit to the supervisor of the township in which such owner resides, or such corporation has its office, a certified copy of that portion of the said statement relating to such copper.

Supervisor, on receiving such statement.

SEC. 5. Every supervisor, or other assessing officer, shall estimate and assess upon his assessment roll all copper belonging to residents of his township, or non-residents of the State, in the same manner and for the same purposes that other personal property is assessed.

Copper to be assessed as other property.

SEC. 6. This act shall take immediate effect.

Approved April 10, 1873.

[Section 1140, O. L. 1871.]

AN ACT to provide for taxing the property of Masonic and Odd Fellows' Lodges, and other benevolent societies.

(1140.) SECTION 1. *The People of the State of Michigan enact*, That any Masonic or Odd Fellows' Lodge, or other benevolent society or order, incorporated under the laws of this State, owning, occupying, or controlling any temple, hall, or other property, such property shall be subject to taxation, in like manner as the same kind of property owned by individuals or companies is taxed:

Taxation authorized.

Proviso.

Provided, That any hall or rooms occupied by such corporation for their own use exclusively shall be exempt from taxation.

SEC. 2. This act shall take immediate effect.

Approved March 24, 1869.

[Act No. 6, page 5, Laws of 1873.]

AN ACT regarding the payment of irregular or illegal taxes.

If payment of tax not protested.

SECTION 1. *The People of the State of Michigan enact*, That in all cases where any person, company, association, or corporation shall voluntarily and without protest pay to the officer demanding the same, and having a tax warrant or other process for the collection thereof, any sum or sums of money purporting by such warrant or process to be payable by such person, company, association or corporation for taxes or assessments, assessed, levied, or imposed by virtue of any law of this State, neither the officer so collecting the same, nor the officer who issued such warrant or process, nor the officer who made the assessment or levy, shall in consequence of such payment be liable in any form of action for or on account of any defect or invalidity in the law under which the proceedings are had, or of any defect or irregularities in the said proceedings, or in such warrant or process.

Officer collecting under warrant, nor officer issuing warrant, nor officer who made assessment to be liable in any form of action.

Collector to pay over moneys so received.

SEC. 2. That whenever moneys shall have been thus voluntarily paid as taxes or assessments to any officer assuming to act under any law of this State, and he shall fail to pay the same over according to the requirements of such law, or of his warrant or other process, any defect, irregularity, or illegality in the proceedings, or any want of authority to assess or levy such taxes or assessment, shall not be set up as a defense to any suit or proceeding brought or instituted to compel such payment by him, or to hold him or his sureties responsible for his neglect to make the same, but he shall make payment the same as if no such defect, irregularity, illegality, or want of authority had occurred or existed.

Defect in warrant or assessment no defense for failure to pay over.

Sureties responsible for neglect to pay over.

Approved February 13, 1873.

[Section 7137, C. L. 1871.]

LIMITATION OF ACTIONS.

Actions for the recovery of land; when to be brought.

(7137.) SECTION 1. That after the thirty-first day of December, in the year of our Lord eighteen hundred and sixty-three, no person shall bring or maintain any action for the recovery of any lands or the possession thereof, or make any entry thereupon, unless such action is commenced or entry made within the time herein limited therefor after the right to make such entry or to bring such action shall have first accrued to the plaintiff, or to some person through whom he claims, to wit:

First, Within five years where the defendant claims title to the land in question by or through some deed made upon a sale thereof by an executor, administrator, or guardian, or by a sheriff, or other

proper ministerial officer under the order, judgment, decree, or process of a court or legal tribunal of competent jurisdiction within this State;

Second, Within ten years where the defendant claims title under a deed made by some officer of this State, or of the United States, authorized to make deeds upon the sale of lands for taxes assessed and levied within this State;

Third, Within fifteen years in all other cases.

[Section 1142, C. L. 1871.]

AN ACT relative to the construction of acts legalizing taxes, assessments, and tax and assessment rolls.

(1142.) SECTION 1. *The People of the State of Michigan enact*, That no act of the Legislature legalizing any tax or assessment, or any tax or assessment roll, and which shall hereafter become a law, shall be construed as extending to the legalization of any irregularity or defect which is not distinctly stated and set forth in such act. Irregularities not legalized unless distinctly stated.

SEC. 2. This act shall take immediate effect.

Approved March 18, 1871.

[Section 450, C. L. 1871.]

AN ACT to regulate the manner of attaching unorganized territory to organized counties, for judicial and municipal purposes.

¹(450.) SECTION 1. In all cases where any unorganized county has been, or may be hereafter attached to any organized county of this State for judicial or municipal purposes, the same shall be deemed to be, and hereby is, attached to the county town of such organized county, or to the township in which the county seat may be located, unless the board of supervisors of such county shall otherwise direct: *Provided*, That whenever it shall appear to the board of supervisors of such organized county, by petition, that such attached territory shall contain at least eighteen resident freeholders and legal voters, said board may in their discretion set off and organize the attached territory into a separate township, and such township so formed and set off shall continue to be attached to such organized county, for the same purpose as before the same was thus organized: *Provided further*, That all the requirements as to notice, petitions, and applications for the organization of such township shall be the same as are now required by chapter ten of the compiled laws of eighteen hundred and seventy-one: *And provided further*, That all the taxes levied in such unorganized county, so attached, for other than State and county purposes after such organization into a separate township, shall be expended within the limits of such unorganized territory. Unorganized county attached to organized county deemed attached to county town. When township to be organized therefrom. Proviso. Tax, where expended.

Approved March 15, 1861.

¹ As amended by Act 49, 1877.

[Act No. 181, page 461, Laws of 1873.]

AN ACT limiting the right of the Auditor General to cancel the taxes on non-resident lands returned as delinquent for the non-payment of taxes in certain cases.

Taxes on railroad lands not to be cancelled.

Except on decree of court.

SECTION 1. *The People of the State of Michigan enact, That the Auditor General shall not cancel the taxes assessed and levied on any lands heretofore granted in aid of the construction of certain railroads in this State, and commonly called railroad lands, and that have been patented to or earned by certain railroad companies, commonly called land-grant railroad companies, unless upon the order or decree of the supreme court of this State.*

Approved April 29, 1873.

AN ACT to prevent the spreading of Canada Thistles in the State of Michigan, being sections 2129 to 2135, compiled laws of 1871.

Owners or occupants to cut down thistles.

Penalty for suffering them to grow.

Duties of overseers or commissioners of highways.

Proviso.

Expenses incurred; account of, to be kept.

(2129.) SECTION 1. *The People of the State of Michigan enact, That it shall be the duty of every owner, possessor, or occupier of land, to cut, or cause to be cut down, all the Canada thistles growing thereon, or on the highway passing by or through the same, so often in each and every year as shall be sufficient to prevent them going to seed; and if any owner, possessor, or occupier of land shall knowingly suffer any such Canada thistles to grow thereon, and the seed to ripen so as to cause or endanger the spread thereof, he shall, on conviction, be liable to a fine of ten dollars for every such offense.*

¹(2130.) SEC. 2. *It shall be the duty of the overseer of highways in any township to see that the provisions of this act shall be carried out within their respective highway districts; and they shall give notice to the owner, possessor, or occupier of any land within said district, whereon Canada thistles shall be growing and in danger of going to seed, requiring him to cause the same to be cut down within five days from the service of such notice; and in case such owner, possessor, or occupier shall refuse or neglect to cut down the said Canada thistles, the overseer of highways shall enter upon the land and cause all such Canada thistles to be cut down, with as little damage to growing crops as may be, and he shall not be liable to be sued in any action of trespass therefor: *Provided*, That when such Canada thistles are growing upon non-resident lands, it shall not be necessary to give notice before proceeding to cut down the same.*

¹(2131.) SEC. 3. *Each overseer of highways shall keep an accurate account of the expenses incurred by him in carrying out the provisions of the preceding section of this act, with respect to each parcel of land entered upon therefor, and shall offer a statement of such expense, describing, by its legal description, the land entered upon, and verified by oath, to the owner, possessor, or occupier of such resident lands, requiring him to pay the amount,*

¹ As amended by Acts 65, 1875, and 181, 1879.

in case such owner, possessor, or occupier shall refuse or neglect to pay the same within thirty days after such application, said claim shall be presented to the township board of the township in which such expense was incurred, and said township board is hereby authorized and required to audit and allow such claim, and order the same to be paid from the fund for general township purposes of said township, out of any moneys in the township treasury not otherwise appropriated; the said overseer of highways shall also present to the said township board a similar statement of the expense incurred by him in carrying out the provisions of said section upon any non-resident land, and the said township board is hereby authorized and required to audit and allow the same in like manner.

Allowance of.

Expenses incurred on non-resident lands.

¹(2132.) SEC. 4. The supervisor of the township shall cause all such expenditures as have been so paid from the township treasury, under the provisions of this act, to be severally levied on the lands so described in the statement of the overseer of highways, and to be collected in the same manner as delinquent highway taxes are collected; and the same, when collected, shall be paid into the township treasury to reimburse the outlay therefrom aforesaid.

Expenses paid to be levied on lands.

(2133.) SEC. 5. Any person who shall knowingly vend any grass or other seed among which there is any seed of the Canada thistle, shall, for every such offense, upon conviction, be liable to a fine of twenty dollars.

Penalty for selling seed among which there is seed of the thistle.

(2134.) SEC. 6. It shall be the duty of the prosecuting attorney of the county to prosecute all violations of the provisions of this act which shall come to his knowledge.

Duty of prosecuting attorney.

¹(2135.) SEC. 7. Every overseer of highways who shall refuse or neglect to discharge the duties imposed on him by the provisions of this act shall be liable to a fine of twenty-five dollars: *Provided*, That the provisions of this act shall be published in pamphlet form and ten copies thereof forwarded to the supervisor of each township in this State.

Penalty for neglect of duty by overseer or commissioner.

Provide.

SURVEY TAX.

[See Section 593, C. L. 1871.]

[Act No. 198, Laws of 1877, as amended by Act No. 283, laws of 1881.]

AN ACT to provide for a tax upon dogs, and to create a fund for the payment of certain damages for sheep killed or wounded by them in certain cases.

SECTION 1. *The People of the State of Michigan enact*, That in all the townships and wards of the cities of this State, there shall be annually levied and collected the following tax upon dogs: Upon every male dog over six months old owned or kept by any

Amount of tax upon dogs.

¹ As amended by Acts 65, 1875, and 181, 1879.

² As amended by Act 181, 1879.

one person or family, one dollar; upon every female dog owned or kept by one person or family, three dollars.

Assessor to ascertain number of dogs, and make list of owners.

SEC. 2. The assessor of every township or ward, at the time of making his annual assessment, shall inquire and ascertain the number of dogs liable to be taxed, and shall enter in lists to be made by him the name of every person in his respective township or ward owning or keeping any dog subject to the above tax, the number kept by such person and the amount of tax to be paid by him.

Duplicate list to be deposited with clerk.

SEC. 3. The assessor of every township and ward shall, on or before the fifteenth day of May in each year, make out a duplicate of the lists made by him as provided in the preceding section, and file the same with the township or city clerk of his respective township or city; said taxes as provided for in the preceding section of this act, shall be assessed to and collected from such persons as shall be liable for the same in the same manner as other township and city taxes are assessed and collected, and with like power to distrain and sell any property of the owner or owners, keeper or keepers of dogs liable to be taxed.

Manner of collecting tax.

SEC. 4. The collector to whom such tax roll shall be delivered shall proceed and collect the sums of money therein specified in the same manner, and with like authority in all respects as in the collection of taxes imposed by the board of supervisors of the county, and shall, after deducting the commission allowed by this act, retain the remainder in the township or city treasury and subject to the orders of the township and city boards, as provided in sections five and six of this act.

Amount of tax subject to order of township and city boards.

Justice, etc., to view sheep killed by dogs.

¹SEC. 5. Whenever any person shall sustain a loss by the killing or wounding of his sheep or lambs by a dog or dogs, he may call on a disinterested justice of the peace of the township or city where such killing or wounding occurred, not of kin to such person, and not a member of the township board or city council, who shall proceed to view the sheep or lambs so killed or wounded, and if from such view he shall be satisfied that the same were killed or wounded by a dog or dogs, he shall make a certificate thereof in writing, stating the amount of damage sustained by such person, and shall deliver the same to the clerk of said township or city, who shall file the same in his office and record it in the records of the township or city. The said justice shall receive for his services in each case the sum of two dollars, to be paid out of the aforesaid fund, on the order of the township board or proper city officer or officers.

Certificate of damages.

Fees of justice.

Payment of damages.

¹SEC. 6. At the annual meeting of the township board in each year, and at a meeting of the common council of each city in April of each year, the said board or council, as the case may be, shall examine all certificates of damage filed by the clerk as aforesaid, during the preceding [preceding] year, and if satisfied that in any case or cases the certified damages are excessive, they may reduce the same to such amount as they may consider just, and may order the payment of all such loss as they may consider just out of the fund aforesaid,

¹ As amended by Act No. 283, laws of 1881.

if it be sufficient for that purpose, and if not sufficient they may order a proportionate payment of each claim, If money remains of such fund after satisfactory payment of all claims aforesaid in any one year, over and above the sum of one hundred dollars, it shall be apportioned among the several school districts of such township or city in proportion to the number of children therein of school age: *Provided*, That no payment of loss shall be made as provided for in this section unless the party applying for the same shall make it appear to the satisfaction of the township board or common council that he has made all due efforts and has not been able to obtain satisfaction therefor, from the owner or owners of the dog or dogs which shall have done the damage.

Apportionment
of surplus.

Proviso.

SEC. 7. The collector shall be allowed to retain a commission of four per cent upon all sums collected by them under the provisions of this act, and shall make and deliver a correct statement and account for the amount of money so collected to the township board of their respective townships, and to the city treasurer of cities at the time of making their annual settlement with said board, and treasurers, and shall be holden on their bonds the same as for other moneys collected if not paid over.

Collector's
commission.

SEC. 8. Any township or city officers who shall willfully neglect or refuse to perform any of the duties imposed upon him by this act, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine not less than (\$50) fifty dollars or more than (\$100) one hundred dollars for each offense.

Penalty on officer
for neglect
of duty.

SEC. 9. Every person in possession of any dog, or who shall suffer any dog to remain about his house for the space of (15) fifteen days previous to the assessment of a tax or previous to any injury, chasing, worrying, or killing of sheep, shall be deemed the owner of such dog for all purposes of this act.

Person possess-
ing dog fifteen
days deemed
owner.

¹SEC. 10. Any person or persons who shall knowingly keep any dog known to be a sheep killing dog, or who shall keep any such dog after it shall come to the knowledge of such person that such dog has been engaged in the killing of sheep, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of not less than ten nor more than fifty dollars, or by imprisonment in the county jail not exceeding three months, or by both such fine and imprisonment in the discretion of the court.

Penalty for
keeping sheep
killing dogs.

[Act No. 268, Laws of 1879, as amended by act 156, Laws of 1881.]

AN ACT to provide for the taxation of the business of manufacturing and selling spirituous and intoxicating, malt, brewed, or fermented liquors, and to repeal act number two hundred and twenty-eight of the session laws of eighteen hundred and seventy-five, approved May three, eighteen hundred and seventy-five, as amended by act one hundred and ninety-seven, of the session

¹ Added by Act No. 283, laws of 1891.

laws of eighteen hundred and seventy-seven, approved May twenty-three, eighteen hundred and seventy-seven, as amended by act number one hundred and fifty-six, laws of eighteen hundred and eighty-one.

Tax on sale and
manufacture of
liquors.

¹SEC. 1. In all townships cities, and villages of this State there shall be paid annually the following tax upon the business of manufacturing, selling or keeping for sale, by all persons whose business, in whole or in part, consists in selling, or keeping for sale, or manufacturing distilled or malt liquors, or mixed liquors, as follows: Upon the business of selling or offering for sale spirituous or intoxicating liquors or mixed liquors, by retail, or any mixture or compound, excepting proprietary patent medicines, which in whole or in part consists of spirituous or intoxicating liquors, the sum of three hundred dollars per annum; upon the business of selling or offering for sale by retail, any malt, brewed, or fermented liquors, two hundred dollars per annum; upon the business of selling brewed or malt liquors at wholesale, or at wholesale and retail, two hundred dollars per annum; upon the business of selling spirituous or intoxicating liquors at wholesale, or at wholesale and retail, five hundred dollars per annum; upon the business of manufacturing brewed or malt liquors for sale, if the quantity manufactured be less than fifteen hundred barrels, sixty-five dollars per annum, and twenty-five dollars upon each additional thousand barrels or part thereof; upon the business of manufacturing for sale spirituous or intoxicating liquors, five hundred dollars per annum. No person paying a tax on spirituous or intoxicating liquors under this act shall be liable to pay any tax on the sale of malt, brewed, or fermented liquors. No person paying a manufacturer's tax on brewed or malt liquors under this act shall be liable to pay a wholesale dealer's tax on the same.

Who deemed
retail dealers.

Wholesale
dealers.

Wine and cider
not retailed
exempt.

Storing of spirit-
uous liquors by
certain persons
evidence of
selling.

SEC. 2. Retail dealers of spirituous or intoxicating liquors, and brewed, malt, and fermented liquors, shall be held and deemed to include all persons who sell by the drink, and in quantities of five gallons or less, or one dozen quart bottles or less, at any one time, to any person or persons. Wholesale dealers shall be held and deemed to mean and include all persons who sell or offer for sale such liquors and beverages in quantities of more than five gallons, or more than one dozen quart bottles, at any one time, to any person or persons. No tax imposed under this act shall be required from any person for selling any wine or cider made from fruits grown or gathered in this State, unless such wine or cider be sold by the drink as other beverages are. The keeping or storing of spirituous liquors by a person or persons who has paid a tax on the business of selling or keeping for sale, malt, brewed, or fermented liquors only, on the premises where such business of selling or keeping for sale, malt, brewed, or fermented liquors is carried on, shall be deemed and held to be *prima facie* evidence of the keeping the said spirituous liquors for sale within the meaning of this act.

¹ As amended by Act No. 156,—188.

The provisions of this act shall not apply to druggists who sell liquors for chemical, scientific, medical [medicinal], mechanical, or sacramental purposes only, and in strict compliance with law: *Provided*, That such druggists shall, on or before the first Monday in May in each year, or before commencing business, execute and file with the county treasurer a bond to the people of the State of Michigan, in the penal sum of three hundred dollars, with two good and sufficient sureties, to be approved by the said treasurer, or the township board of the township, or the board of trustees, or the common council of the village or city in which such druggists carry on their business, which shall be substantially as follows:

Act not to apply to certain druggists.

Proviso.

Know all men by these presents, that we....., as principal, and..... and as sureties are held and firmly bound unto the people of the State of Michigan in the sum of three hundred dollars, to the payment whereof, well and truly to be made, we bind ourselves, our heirs, executors, and administrators, jointly and severally, firmly by these presents.

Bond of druggist.

Sealed with our seals, and dated this..... day of, 18....

WHEREAS, The aforesaid named principal (or principals) professes to carry on the business of a druggist at, in the county of, State of Michigan.

AND WHEREAS, The said principal hath covenanted and agreed as follows, to wit: That he will not directly or indirectly, by himself, his agent, clerks, or servant at any time, sell, furnish, give, or deliver any spirituous or intoxicating liquors, or any wine, beer, or malt liquors, or any mixture or compound, or any mixed liquors a part of which is spirituous or intoxicating, to any person except for medicinal, mechanical, chemical, scientific, or sacramental purposes during the year ending on the first Monday of May following the giving of this bond.

Now, therefore, the condition of this obligation is such that if the said shall not sell, furnish, give, or deliver any spirituous or intoxicating liquor, or any wine, beer, or malt liquor, or any mixture or compound, or any mixed liquor, a part of which is spirituous or intoxicating to any person except for medicinal, mechanical, chemical, scientific, or sacramental purposes, then this obligation shall be void, otherwise of full force and virtue, and the full sum of three hundred dollars shall be collected and paid thereon.

Witnesses,

[L. S.]

[L. S.]

[L. S.]

I approve of and..... as sureties in the foregoing bond.

.....
County Treasurer.

And the prosecuting attorney of any county in this State is required, whenever he believes that the conditions of any such bond in his county has been violated, to bring a suit upon such bond, in a court of competent jurisdiction, and it shall be his duty, when complaint on oath is made to him that the condition of such bond

Prosecuting attorney to bring suit for violation of bond.

has been violated, giving the time and place of such violation, and the circumstances attending the same, to prosecute said bond. And said penalty, when collected, shall be placed to the credit of of the fund designated in section eight of this act.

Statement on
oath to be filed
by persons sell-
ing liquor.

SEC. 3. Every person engaged in or intending to engage in any business named in section one of this act, and requiring the payment of any tax mentioned in said section one, shall, on or before the first Monday in May in each year, make and file with the county treasurer, in the county where it is proposed to carry on such business, a statement in writing and on oath, showing the name and residence of such person, the ward, village, or township in which it is proposed to carry on such sale or manufacture, and the nature of the business which such person is engaged in, or is intending to engage in; and shall, on or before the first Monday in May in each year, pay to the said county treasurer, in advance, the taxes required by said section one for such business, for the year commencing on said first Monday of May, and ending on the first Monday of May next thereafter.

When tax to be
paid.

Tax on fraction-
al part of year.

SEC. 4. Any person engaging in any such business after the first Monday in May in each year shall, before commencing such business, make and file the like statement on oath, as is provided for in section three of this act, and pay in advance to said county treasurer a *pro rata* portion of the yearly tax on such business, as provided in section one, for the remainder of the year ending on the first Monday of May next ensuing; and in computing the time of such fractional part of a year for which a tax is demanded, the tax shall commence on the first Monday of that month in which said business shall commence. But no tax shall be less than one-half of the yearly tax.

Receipt for tax.

SEC. 5. On receiving the tax provided for in this act, the county treasurer shall give a receipt for the money so paid, to the person or persons of whom the same shall be received, in which receipt the name of the person or persons paying the tax shall be named, the amount of the tax, and the time for which it was paid, the city, village, or township in which the business is to be conducted, and the kind of business for or on account of which the tax was paid; and also a notice printed on full size printer's card board, and in as large letters as practicable, which notice shall contain a statement of what tax has been paid by the holder of said notice and the penalty for selling liquors of a class different from that for which the tax has been paid, and that ten dollars costs will be paid to the person making complaint upon the conviction of the offender, and that complaint may be made to any justice of the peace or police justice, and before commencing or doing any business for the time for which such tax is paid, and the receipt is given, the same shall be posted up, and at all times displayed in a conspicuous place in the room or place where the sale of the liquors or beverages named in this act, and for which the tax was paid, is carried on, so that such receipt and notice shall be displayed in a

Notice to be
displayed.

¹ As amended by Act No. 156-1881.

conspicuous manner to all persons visiting or frequenting such room or place; and any person or persons who shall carry on any business or sell any liquors or beverages, for which a tax is required to be paid by this act, without having such receipt and notice posted up and displayed at all times in the place where such business or sale is or are carried on, shall be deemed guilty of a misdemeanor, and shall be subject to the same fine and punishment as is provided in this act for the neglect or refusal to pay the tax required by this act. And it shall be the duty of the Auditor General to prepare printed blank receipts and notices conforming to the provisions of this act, and to furnish the same in proper quantities to the several county treasurers of this State. And no county treasurer shall issue any such receipt or notice until the tax specified herein shall be paid in full.

Penalty for selling liquor without displaying notice.

Auditor General to prepare printed blanks.

SEC. 6. If any person or persons shall engage or be engaged in any business requiring the payment of a tax under section one of this act, without having paid in full the tax required by this act, and without having the receipt and notice for such tax posted up as required by this act, or shall in any manner violate any of the provisions of this act, such person or persons shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not less than fifty dollars nor more than one hundred dollars, and by imprisonment in the county jail not less than ten nor more than ninety days, in the discretion of the court. And for each and every day in which any person or persons shall be engaged in any such business without payment of the tax herein required, and without posting of the receipt and notice as herein provided, he shall be deemed guilty of a new, separate, and distinct violation of this act, and shall be punished therefor as above provided. And any person or persons who shall have paid a tax under the provisions of this act, and who shall thereafter extend or enlarge his said business, or do any act or thing contrary to the provisions of this act, or do anything requiring the payment of a larger tax without having paid to the county treasurer such enlarged tax and posting the receipt and notice as required by this act, shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be punished as herein provided.

Penalty for selling without paying tax.

Each day's violation of act deemed new violation.

Business not to be extended or enlarged.

SEC. 7. It shall be the duty of the supervisors or other officers whose duty it is to make assessments in townships, wards, villages, or cities, to report in writing to the county treasurer, within the first five days of each and every month, the names and residence of every person within his township, ward, village, or city, violating this act. And such supervisor or other assessing officer shall receive for such services the sum of two dollars per day while actually and necessarily employed in such business, and mileage at the rate of ten cents per mile for the distance actually and necessarily traveled in going to notify such county treasurer, which fees shall be paid by the township, village, or city for which said services were rendered.

Supervisors to report in writing to county treasurer violation of act.

Fees of supervisors, etc.

¹ As amended by Act No. 156, -1881.

To what fund money to be placed.

Fees of county treasurer.

Notice to prosecuting attorney of violation of act.

Monthly report to be made by county treasurer.

Where filed.

Annual report to Auditor General.

Publication of report.

Auditor General to furnish blanks.

Penalty for willful neglect by officer to perform duty.

¹ SEC. 8. All moneys paid to any county treasurer under the provisions of this act, after deducting his fees as herein provided, shall be by him placed to the credit of the contingent fund of the township, village, or city from which the same was collected, and shall be by such county treasurer paid over, on demand, to the treasurer of such township, village, or city, and the said moneys so paid shall be by such township, village, or city applied as other contingent funds. The county treasurer shall receive and retain one per cent on all moneys paid to him, as a recompense in full for all his services rendered under the provisions of this act.

SEC. 9. It shall be the duty of every county treasurer, sheriff, deputy sheriff, police officer, or other person having notice or knowledge of any violation of the provisions of this act, to immediately notify the prosecuting attorney of the county thereof, and it shall be the duty of such prosecuting attorney forthwith to prosecute every person violating any of the provisions of this act, and for each and every violation thereof.

SEC. 10. It shall be the duty of each and every county treasurer, at the end of each and every month, to make a full and complete report, under oath, containing the names of each and every person or persons in his county paying a tax during said month, under the provisions of this act, stating therein the residence of such person or persons, the nature of the business in which such persons are engaged, the place of doing business, the amount of tax paid and the date of payment of the same, and file such statement with the clerk of his county; and such county treasurer shall also, on or before the first day of December, in each year, make a full and complete report of all the facts, as shown by said reports, and return the same to the Auditor General, and publish the same in some newspaper published in his county, if there be one, and in two if there be two. All blanks required to carry into effect the provisions of this act shall be prepared and furnished by the Auditor General to the county treasurers, and by them to the township, village, and city officers.

SEC. 11. In case any assessor, county treasurer, prosecuting attorney, or other officer whose duty it is to see that the provisions of this act are faithfully enforced, shall willfully neglect or refuse to perform his duty under the provisions of this act, he shall be liable to a penalty of one hundred dollars for each and every offense, and the Governor may, in case of such neglect or refusal, appoint some other person or persons to perform the duties prescribed by this act, who shall, upon being so appointed, have like powers and duties, and receive the same fees, under this act, as such assessor, treasurer, prosecuting attorney, or other officer, as the case may be; and in case of the appointment of any person in place of the prosecuting attorney, to prosecute for violation of this act, in any county, the board of supervisors shall allow and pay to such prosecutor a reasonable compensation for all services performed by him as such prosecutor.

¹ As amended by Act No. 156, -1881.

SEC. 12. Act number two hundred and twenty-eight of the session laws of eighteen hundred and seventy-five, approved May third, eighteen hundred and seventy-five, and act number one hundred and ninety-seven of the session laws of eighteen hundred and seventy-seven, approved May twenty-third, eighteen hundred and seventy-seven, are hereby repealed. Acts repealed.

Approved May 31, 1879.

[Act No. 236, Laws of 1875.]

AN ACT to impose a tax on the business of selling spirituous and intoxicating, malt, brewed, and fermented liquors in the State of Michigan to be shipped from without this State.

SECTION 1. *The People of the State of Michigan enact*, That every person who shall come into, or being in this State, shall engage in the business of selling spirituous and intoxicating, malt, brewed, or fermented liquors to citizens or residents of this State, at wholesale, or of soliciting or taking orders from citizens or residents of this State for any such liquors, to be shipped into this State, or furnished, or supplied at wholesale to any person within this State, by a person, copartnership, association, or corporation, not resident in this State, nor having his, their, or its principal place of business within this State, shall, on or before the fourth Friday of June in each year, pay a tax of three hundred dollars if engaged in selling, or soliciting, or taking orders for the sale of such spirituous and intoxicating liquors, and one hundred dollars for malt, brewed, or fermented liquors. Such tax shall be paid to the Auditor General, and be by him paid into the State treasury, to the credit of the general fund. Tax upon non-residents for selling liquor at wholesale.

SEC. 2. Upon the payment of such tax the Auditor General shall issue to such person a receipt therefor, and in case of loss thereof, a duplicate, when required by the person to whom the original receipt was issued. Every person making sales, or soliciting, or taking orders, as in the first section of this act provided, shall exhibit such receipt to every person to whom he makes sale, or from whom he takes or solicits orders for such liquors, and shall exhibit such receipt to any supervisor, justice of the peace, sheriff, under or deputy sheriff, city or village marshal, chief of police, policeman, or constable, when required so to do, during business hours. Payment to Auditor General.

SEC. 3. Any person liable to pay a tax under this act, who shall sell any liquors, or solicit or take orders for liquors to be shipped from without this State to any person within this State, furnished or supplied by a person, copartnership, association, or corporation not resident in, or having his, their, or its principal place of business within this State, without the tax herein provided for having been paid, and having in his possession and exhibiting the receipt therefor, or a duplicate thereof; and any person residing or being in this State who shall purchase liquors from a person liable to pay a tax under this act, who has not paid such tax, or shall give an Receipt for tax.

Person making sales, etc., to exhibit receipt.

Penalty for selling liquor by, and for purchasing of persons, etc., who have not paid tax.

order for liquors to such person liable to pay a tax under this act, which order is to be filed, and such liquors are to be shipped from without this State to a person within this State, furnished or supplied by a person, copartnership, association, or corporation, not resident in or having his, their, or its principal place of business within this State, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than twenty-five nor more than one hundred dollars; and in default of payment thereof shall be imprisoned not less than ten nor more than ninety days, or both such fine and imprisonment, in the discretion of the court.

Selling at whole-
sale defined.

SEC. 4. Selling at wholesale shall be deemed to mean and include all sales of such spirituous and intoxicating, malt, brewed, or fermented liquors in quantities of five gallons or over, or one dozen quart bottles or more, or soliciting orders therefor at any one time of any person.

SEC. 5. This act shall take immediate effect.

Approved May 3, 1875.

EXEMPTION OF LANDS ENTERED WITH WARRANTS ISSUED FOR SERVICES IN THE WAR OF 1812.

[See page 41, Compiled Laws of 1871.]

* * * Bounty lands granted, or hereafter to be granted, for military services during the late war, shall, while they continue to be held by the patentees or their heirs, remain exempt from any tax laid by order or under the authority of the State, whether for State, county, township, or any other purpose, for the term of three years from and after the date of the patents respectively. * *

[Act No. 23, page 19, Laws of 1861.]

AN ACT to extend the time for the collection and return of taxes in the unorganized territory in Manitou county.

Time extended.

SECTION 1. *The People of the State of Michigan enact*, That the time for the collection of taxes in the unorganized territory in Manitou county be extended to the first day of June, in the year one thousand eight hundred and sixty-one, and until the same date in each year thereafter, until said territory shall become organized; and the proper officer whose duty it is to collect the said taxes shall, by the first day of June in each year, make his returns as fully, and in like manner, to the county treasurer, as he should have done had he made his returns the first day of February.

Returns, when
made.

Unpaid taxes.

SEC. 2. A transcript of all unpaid taxes in said unorganized territory returned to the county treasurer of Manitou county, in pursuance of the foregoing provisions, shall be returned to the Auditor General as soon as practicable, and in like manner as now required by law, except the time of making said returns; and the

Auditor General is hereby authorized to receive such returns so made, and such unpaid taxes shall be collected in the same manner, and with interest from the same time as other taxes for like years, and duly returned to the Auditor General for non-payment. How collected.

SEC. 3. It shall be the duty of the officer whose duty it is to collect the taxes in the territory aforesaid, before he shall be entitled to the benefits of this act, to pay all money collected during the time he was heretofore allowed by law to collect the same, and to execute to the treasurer of said county a bond in a similar form, and with like condition and penalty as is required by law of county treasurers, with sufficient sureties, to be approved by such treasurer. Duty of officer.

SEC. 4. This act to take effect immediately. New bond.

Approved February 2, 1861.

[Act No. 131, Laws of 1875.]

AN ACT to provide for the safe keeping of public moneys.

SECTION 1. *The People of the State of Michigan enact*, That all moneys which shall come into the hands of any officer of the State, or of any officer of any county, or of any township, school district, highway district, city, or village, or of any other municipal or public corporation within this State, pursuant to any provision of law authorizing such officer to receive the same, shall be denominated public moneys within the meaning of this act. "Public moneys" defined.

SEC. 2. It shall be the duty of every officer charged with the receiving, keeping, or disbursing of public moneys to keep the same separate and apart from his own money, and he shall not commingle the same with his own money, nor with the money of any other person, firm, or corporation. Public moneys to be kept separate from all other funds.

SEC. 3. No such officer shall, under any pretext, use nor allow to be used, any such moneys for any purpose other than in accordance with the provisions of law; nor shall he use the same for his own private use, nor loan the same to any person, firm, or corporation without legal authority so to do. How used.

SEC. 4. In all cases where public moneys are authorized to be deposited in any bank, or to be loaned to any individual, firm, or corporation, for interest, the interest accruing upon such public moneys shall belong to and constitute a general fund of the State, county, or other public or municipal corporation, as the case may be. Interest on public moneys to constitute a general fund.

SEC. 5. In no case shall any such officer, directly or indirectly, receive any pecuniary or valuable consideration as an inducement for the deposit of any public moneys with any particular bank, person, firm, or corporation. Officers not to receive consideration for deposit of money with particular bank, etc.

SEC. 6. The provisions of this act shall apply to all deputies of such officer or officers, and to all clerks, agents, and servants of such officer or officers. Provisions of this act to apply to deputies, etc.

SEC. 7. Any person guilty of a violation of any of the provisions of this act, shall, on conviction thereof, be punished by a fine not exceeding one thousand dollars, or imprisonment in the county Penalty for violating provisions of this act.

Proviso.

jail not exceeding six months, or both such fine and imprisonment in the discretion of the court: *Provided*, That nothing in this act contained shall prevent a prosecution under the general statute for embezzlement in cases where the facts warrant a prosecution under such general statute.

Penalty for illegal payment of money.

SEC. 8. Any officer who shall willfully or corruptly draw or issue any warrant, order, or certificate for the payment of money in excess of the amount authorized by law, or for a purpose not authorized by law, shall be deemed guilty of a misdemeanor, and may be punished as provided in the preceding section.

Approved April 27, 1875.

[Act No. 106, Laws of 1851, as amended in 1871—being Sections 298 to 306, C. L. 1871.]

AN ACT to provide for a State Board of Equalization.

Who to compose State Board of Equalization.

(298.) SECTION 1. *The People of the State of Michigan enact*, That there shall be a State Board of Equalization, to consist of the Lieutenant Governor, Auditor General, Secretary of State, State Treasurer, and Commissioner of the Land Office, whose duty it shall be, in the year eighteen hundred and fifty-one, and every fifth year thereafter, to equalize the assessments on all taxable property in the State, except that paying specific taxes, as hereinafter provided.

Their duty.

When to meet at Capitol.

(299.) SEC. 2. It shall be the duty of the board to meet at the Capitol in the village of Lansing, on the third Monday of August; and the persons composing it shall organize by choosing one of their number chairman, and the deputy auditor general, or one of the clerks in the office of the Auditor General, shall act as secretary, who shall keep a record of the proceedings, which shall be certified by said chairman and secretary, and filed in the office of the Auditor General.

Who to act as secretary.

Oath of office.

(300.) SEC. 3. The several persons constituting the board, as herein provided, before entering upon the duties of their office, shall each take and subscribe the constitutional oath of office, before some person authorized to administer oaths; which oaths shall be filed and preserved with the proceedings of the board.

Board to examine tabular statements of boards of supervisors.

(301.) SEC. 4. After said board shall have been organized, they shall proceed to examine the tabular statements of the board of supervisors of each county, provided for in the eighth section of this act, and to hear the representatives from the several boards of supervisors as hereinafter provided; and they shall determine whether the relative valuation between the several counties is equal and uniform, according to location, soil, improvements, production, and manufactories; and also whether the personal estate of the several counties has been uniformly estimated, according to the best information which can be derived from the statistics of the State, or from any other source. If, after such examination, such assessment shall be determined relatively unequal, they shall equalize the same, by adding to or deducting from the aggregate valuation

Assessments relatively unequal, how equalized.

of taxable real and personal estate in such county or counties such percentage as will produce relative, equal, and uniform valuations between the several counties in the State; and the percentage added to or deducted from the valuations in each county, shall be entered upon their records; and the valuations of the several counties, as equalized, shall be certified and signed by the chairman and secretary of the board, and filed in the office of the Auditor General, and shall be the basis for apportioning all State taxes until another equalization shall be made.

(302.) SEC. 5. It shall be the duty of the Auditor General, as soon as may be after the determination of the State Board of Equalization shall be filed in his office, as provided in the preceding section, to send a certified transcript of the same to the treasurer of each county, who shall cause the same to be published in one or more papers in the county.

Duty of Auditor General and county treasurer.

(303.) SEC. 6. A meeting of the Board of Supervisors for the year eighteen hundred and fifty-one shall be held on the second Monday of June, and on the second Monday of June every fifth year thereafter; and when convened, the board shall proceed to equalize the assessment rolls in the same manner as is provided in chapter twenty of the revised statutes of eighteen hundred and forty-six; and each of said supervisors shall add up the columns of their respective rolls, enumerating the number of acres of land, and the value of the real estate and personal property, so assessed, so as to show the aggregate of each.

Board of supervisors to equalize assessments.

(304.) SEC. 7. The Board of Equalizers shall hear any evidence which may be laid before them by any person appointed by any board of supervisors, and any representation made by such person in behalf of any county.

Board may hear evidence.

(305.) SEC. 8. It shall be the duty of the clerk of each board of supervisors to make out a tabular statement, from the aggregate of the several assessment rolls, of the number of acres of land, and the value of the real estate and personal property, in each township and ward, as assessed, and also the aggregate valuation of the real estate of each roll as equalized, and make a certified copy thereof, signed by the chairman and clerk, and transmit the same to the Auditor General on or before the second Monday of July following, who shall lay the same before the State Board of Equalization, when organized: *Provided*, That such statement and copy shall not embrace any property paying specific taxes.

Clerk of board of supervisors to make out tabular statement for Auditor General.

Provided.

(306.) SEC. 9. Any three members of the board shall constitute a quorum for the transaction of business. The Lieutenant Governor shall receive three dollars a day for actual attendance, and ten cents a mile for travel in going to and returning from the seat of government, the usual traveled route, to be paid out of the treasury, on the warrant of the Auditor General.

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CHANGES IN HIGHWAY LAWS.

The highway laws of 1881 were changed in important particulars by an act approved March 14, 1882. The following are the amended sections, and they should be observed in assessing highway taxes in place of corresponding sections in previous publications:

[Act No. 243, Public Acts of 1881, as amended in 1882.]

CHAPTER II.

SEC. 4. In case the electors present at any annual township meeting shall neglect or refuse to vote any rate of highway labor to be assessed, as by the first subdivision of the last preceding section provided, the Commissioner, in making his assessment, may assess not exceeding one-half day's labor upon each one hundred dollars of valuation; and in case such electors shall neglect or refuse to vote a money tax, as by the second subdivision of the preceding section provided, the township board may order to be levied such sum, within the limit herein above provided, as they may deem necessary, for the improvement of roads and bridges; and a certified copy of the record of the proceedings of the township meeting, township board, and highway commissioner respecting the assessment of such highway labor and highway tax shall be delivered by the township clerk to the supervisor of his township, on or before the first day of October in each year. The amount of such labor, estimating the same at the rate of one dollar for each day and also the other highway taxes shall be levied and assessed by the supervisor upon the township assessment roll for the current year, and shall be collected in the same manner as moneys appropriated for general township purposes. The taxes so levied shall be carried out in the assessment roll as highway taxes. The township treasurer shall keep a separate account of the same as the highway fund.

Assessment of labor if township neglects to vote, etc.

How highway tax levied and collected.

SEC. 5. The Commissioner of Highways shall be in attendance at the office of the supervisor on the ~~second~~ day next following the completion of the assessment roll by the board of review in each year, notice of which shall be given by the supervisor to such

When highway tax to be assessed.

Commissioner for the purpose of assessing a highway tax, and he shall have free access to the assessment roll until he shall have completed his assessment.

Clerk to make duplicate lists and where filed.

SEC. 8. The township clerk shall make duplicates of the several lists, one of which lists for each district shall be filed by such clerk in his office, and the other shall be forthwith delivered by the Commissioner to the overseer of highways of the proper district, with his warrant as Commissioner annexed thereto, commanding the overseer of highways to warn the persons therein assessed to work on the highways, and to make return of his doings in the premises to such Commissioner as the law directs. No omission to enter or assess property for highway labor upon such lists, or other error or defect in such lists or in the warrants attached thereto, shall in any way affect or invalidate the assessment of property in the township assessment roll prepared by the supervisor.

No omission to affect assessment.

CHAPTER III.

Commutation.

SEC. 4. Every person liable to work on the highways shall work the whole number of days for which he shall have been assessed, unless he shall elect to commute for the same or some part thereof, and shall, within the time in which he is required to appear and work, pay the commutation money, at the rate of one dollar for each day assessed, to the overseer of the district in which the labor is required to be performed, and the commutation shall not be considered as complete until such money be paid. The overseer shall give to every person performing highway labor assessed upon real or personal property described upon his list, or commuting therefor, a receipt signed by him. If such labor is assessed against personal property, such receipt shall set forth the name of the person appearing on the overseer's list opposite such assessment and the value of such property; and if such labor is assessed against real property, he shall describe the same; and in all cases such receipts shall state the number of days' labor performed and the amount of commutation paid on account of such property. The overseer shall also enter upon his list to which the warrant of the Commissioner is attached, opposite the description of such property, the number of days' labor performed and the amount of money paid. In the event of the loss or destruction of such receipt, the overseer of highways may execute a duplicate receipt. After the filing of such list and warrant in the office of the township clerk, such clerk shall, upon the application of any person interested, make and sign a certificate setting forth what appears on such list respecting the performance of the labor and payment of commutation for the labor assessed against any property on such list, and such certificate shall have the same force and effect as a receipt of the overseer aforesaid. All commutation moneys so paid shall be expended by the overseer, so far as may be necessary, in the purchase of implements, or construction and repair of the roads

Expenditure of commutation money.

d bridges in the same district, but no overseer shall be allowed commute for any portion of the time for which he is assessed, unless his tax shall exceed the number of days necessary for the faithful and efficient supervision by him of the highway work within a district, in which case he may commute for the excess.

SEC. 7. Every sum of money collected for a refusal or neglect to appear and work on the highways shall be set off against the assessment upon which it was founded, estimating every one dollar and twenty-five cents collected, exclusive of the costs of the proceedings, as a satisfaction for one day's work. And the overseer shall give receipt therefor as provided in section four of this chapter.

Fines collected set off against assessment.

CHAPTER IV.

SEC. 3. At the time such vote is taken, and at every annual township meeting thereafter, the electors present, immediately after the election of overseers of highways, shall, by a majority of those present and voting and who do not reside in any incorporated village, determine the amount of tax to be raised for highway purposes under this chapter, for the next ensuing year, not exceeding one-half of one per cent on the aggregate assessed valuation of the property of the township; and in case they do not so determine the amount of such tax within the limit above provided, it shall be fixed by the township board. A certified copy of the record of the proceedings of the township meeting and township board fixing and determining the amount of such highway taxes, shall be transmitted by the township clerk to the supervisor of his township, on or before the first day of October in each year, and such taxes shall be levied and collected in the same manner as moneys for general township purposes are levied and collected; but no part of such tax shall be levied on property within the limits of incorporated villages. The taxes so levied shall be carried out in a separate column in the tax roll as highway taxes, and the township treasurer shall keep a separate account of the same as the highway fund. In addition to the bond required to be given by the treasurer, by section seventy-seven of chapter sixteen of the revised statutes of eighteen hundred and forty-six, such bond shall be in at least double the amount of any moneys to come into his hands by virtue of this chapter.

Vote on question as to amount raised.

Certified copy of record to be transmitted to supervisors, etc.

CHAPTER XL

SEC. 5. The Commissioner shall, between the first and fifteenth days of November in each year, call upon each overseer of his township for the purpose of procuring the returns mentioned in section twelve of this chapter, and shall, on or before the 20th day of November, deposit the returns mentioned in the sixth subdivision of said section with the township clerk, and at the same time he

Returns of overseers.

shall deposit with such clerk the original list and warrant received from the Commissioner. Said clerk shall file and keep the same in his office.

Overseer to pay
over moneys col-
lected.

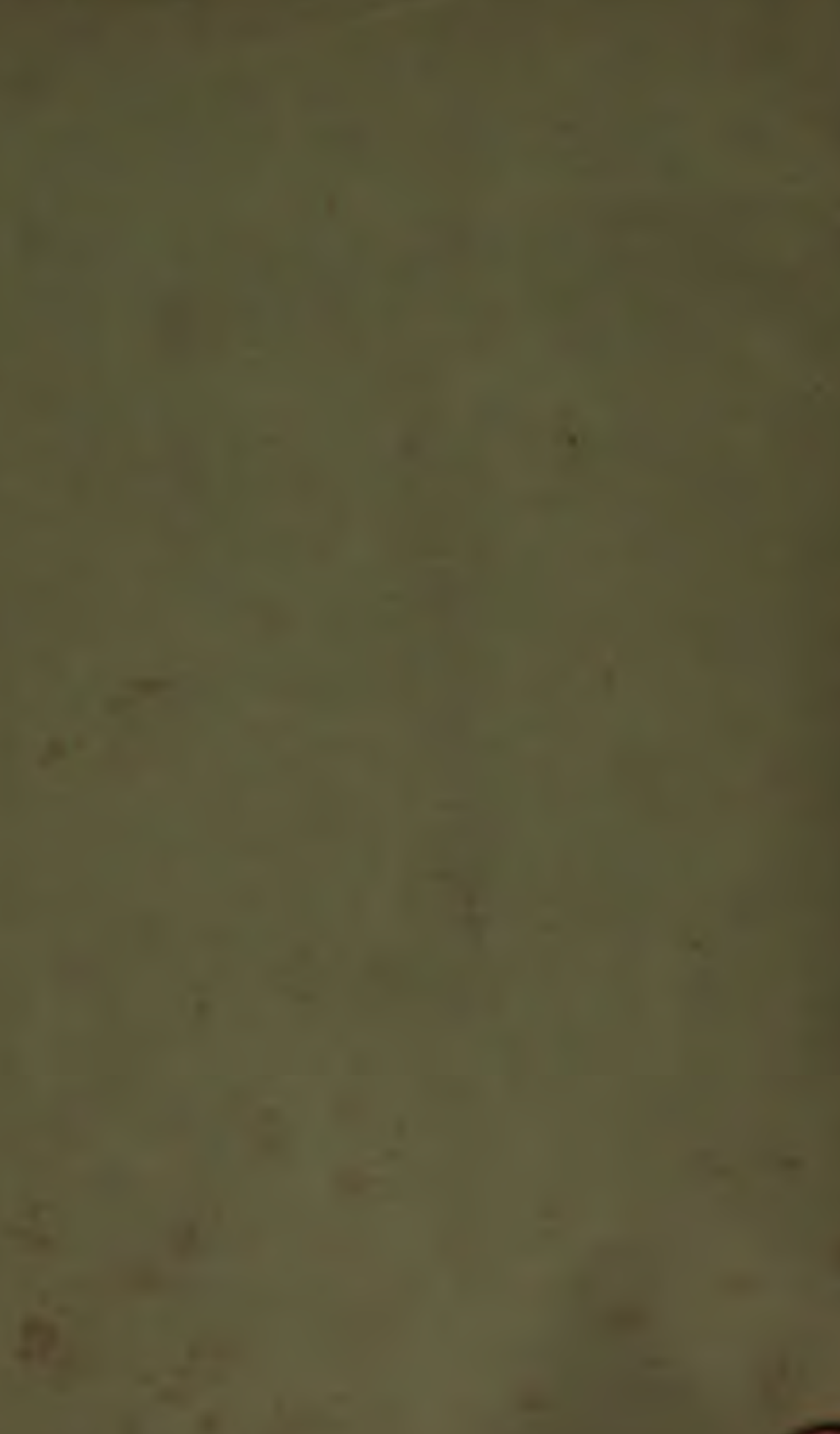
SEC. 13. Every such overseer shall, immediately upon the rendering of such account, pay over to the township treasurer all money collected by him for judgments and commutations and remaining unexpended in his hands. But no error or omission of duty on the part of the overseer of highways shall invalidate the highway taxes assessed by the supervisor on the township assessment roll.

Errors not to in-
validate tax.

CHAPTER XII.

Township treas-
urer to receive
receipts of over-
seers for taxes,
etc.

SEC. 14. The township treasurer and other officers authorized to receive payment for taxes assessed in any township, shall accept the receipt of the overseer of highways given for labor or commutation money, and credit the same on account of highway taxes assessed during the year in which the labor was performed or commutation paid against the property therein described as cash estimating the labor at the rate of one dollar per day. Such township treasurer or other officer shall give receipt therefor and mark the same paid upon his tax roll or delinquent tax list, as in the case of the payment of taxes in money. The receipts so received by the township treasurer or other officer shall be credited and allowed to him as money; but the officer to whom such highway taxes is so paid shall receive no fee or percentage thereon.



3304
A3
TAX LAW

1880

OF THE

STATE OF MICHIGAN,

AS ENACTED BY THE LEGISLATURE AT ITS REGULAR SESSION,
A. D. 1860, AND AMENDMENTS OF 1871, 1872, 1873,
1875, 1877, AND 1879.

Published under the Supervision of the Auditor General.



BY AUTHORITY,

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TAX LAW

OF THE

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AS ENACTED BY THE LEGISLATURE AT ITS REGULAR SESSION,
A. D. 1869, AND AMENDMENTS OF 1871, 1872, 1873,
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OF THE
STATE OF MICHIGAN.

AN ACT to provide for a uniform assessment of property, and for the collection and return of taxes thereon.

[Act No. 169, Laws of 1869, p. 325; Compiled Laws, 1871, p. 359, and amendments thereto.]

(967.) SECTION 1. *The People of the State of Michigan enact,* Property subject to taxation.
That all property, real and personal, within this State, not expressly exempted therefrom, shall be subject to taxation in the manner provided by law.

(968.) SEC. 2. Real estate shall, for the purpose of taxation, be Real estate.
construed to include all lands in the State, and all buildings and fixtures thereon, except in easements otherwise expressly provided by law.

(969.) SEC. 3. Personal estate shall, for the purposes of taxation, be Personal estate.
construed to include all goods, chattels, moneys, credits, and effects, wheresoever they may be; all ships, boats, and vessels belonging to inhabitants of this State, whether at home or abroad, and all capital invested therein; all moneys at interest either within or without this State, due the person to be taxed more than he pays interest for, and all other debts due such persons more than their indebtedness; all public stocks and securities, all stock in turnpikes, railroads, canals, and other corporations (except national banks) out of the State, owned by inhabitants of this State; all personal estate of moneyed corporations, whether the owner thereof reside in or out of this State, and the income of any annuity, unless the capital of such annuity be taxed within the State; all shares of stock in any bank organized or that may be organized under any law of this State or of the United States; and all improvements made by persons upon lands held by them under the homestead laws of the United States, the fee of which lands is still vested in the United States, and all such improvements upon lands the title to which is still vested in the State of Michigan.

¹(970.) SEC. 4. All property of private corporations, except in Corporate property.
the cases where some other provision is made by law, shall be assessed in the name of the corporation, in the township or ward

¹As amended by act No. 161, 1877

where the same shall be situated; and in collecting the same, all the personal property of such corporation shall be liable to be seized wherever the same may be found in the county, and sold in the same manner as the property of individuals may be sold for taxes, (and the assessed value of all real estate, which is a part or parcel of the capital stock of any bank shall be deducted from the assessed value of such bank shares, *pro rata*).

(971.) SEC. 5. The following property shall be exempt from taxation, viz:

First. Household furniture, including stoves put up and kept for use in any dwelling house, not exceeding in value two hundred dollars;

Second. All spinning and weaving looms and apparatus, not exceeding in value fifty dollars;

Third. All arms and accoutrements required by law to be kept by any person; all wearing apparel of every person of family;

Fourth. The library and school books of every individual and family, not exceeding in value one hundred and fifty dollars, and all family pictures;

Fifth. To each householder, fifteen sheep with their fleeces, and the yarn and cloth manufactured from the same, two cows, five swine, and provisions and fuel for the comfortable subsistence of such householder and family for six months, and all musical instruments kept for use, not exceeding in value one hundred dollars;

Sixth. All the property of the United States and of this State, except lands bid off for the State at tax sales, except as hereinafter provided;

Seventh. All public or corporate property of the several counties, cities, villages, townships, and school districts in this State, used or intended for corporate purposes;

Eighth. The personal property of all library, benevolent, charitable, and scientific institutions, incorporated within this State, and such real estate belonging to or leased by such institutions as shall be actually occupied by them, for the purposes for which they were incorporated;

Ninth. All the houses of public worship, with the pews or slips and furniture therein; also, the land on which such houses of worship may stand, so far as occupied by such houses of worship, and for no other purposes, and rights of burial and tombs, while in use as repositories of the dead; and also any parsonage, owned and occupied as such by any religious society incorporated under the laws of this State;

Tenth. The personal and real estates of persons who, by reason of infirmity, age, or poverty, may, in the opinion of the supervisor, be unable to contribute towards the public charges.

(972.) SEC. 6. When a tenant, paying rent for real estate, shall be taxed therefor, he may retain out of his rent, the taxes paid by him for the same, unless there be an agreement to the contrary.

(973.) SEC. 7. All personal estate, within this state, except in the cases where other provision is made by the third and eighth

Tenant paying
taxes may
retain.

Estate—where
assessed and to
whom.

¹ See Sec. 2169, C. L. 1871, for exemption of property of agricultural societies.

sections of this act, shall be assessed to the owner in the township where he shall be an inhabitant on the second Monday of May, and all resident real estate to the person occupying it on that day, unless the same shall be given in by some other person for assessment to him.

¹(974.) Sec. 8. The excepted cases referred to in the preceding section, and not included in said section three, are the following: Excepted cases.

First. All goods, wares, and merchandise, or stock in trade, including stock employed in the business of the mechanic arts, in any township other than where the owner resides, shall be taxed in the township where the same may be, if the owner hire or occupy a store, mill, shop, or warehouse therein, and shall not be taxable where the owner resides, and all shares in national or State banks shall be taxed in the township or city where the bank is located, and not elsewhere: *Provided*, that shares owned by persons residing within the county where such bank is located, shall be assessed in the township, city, or village where the owner thereof resides;

Second. All horses, mules, and neat cattle, sheep, and swine, kept throughout the year, other than where the owner resides, shall be assessed to such owner in the township where they are kept;

Third. All personal property of non-residents of this State shall be assessed to the owner or to the person having the possession or control thereof, in the township or city where the same may be, or in case the same is in transit, at the place of destination within the State;

Fourth. All personal property belonging to minors under guardianship shall be assessed to the guardian in the township where he is an inhabitant, and the personal property of every other person under guardianship shall be assessed to the guardian in the township of which the ward is an inhabitant;

Fifth. All personal property held in trust by any executor, administrator, or trustee, the income of which is to be paid to any married woman or other person, shall be assessed to the person having possession or charge of such property, in the township of which he is an inhabitant, whether such married woman or other person reside within or without this State;

Sixth. Personal property placed in the hands of any corporation, as an accumulating fund for the future benefit of heirs or other persons, shall be assessed to the persons for whose benefit the same is accumulating, if within this State; otherwise, to the person so placing it, or his executors or administrators, until the trustees shall be appointed to take charge of such property, or of the income thereof;

Seventh. The personal estate of persons deceased, which shall be in the hands of executors or administrators, shall be assessed to the executors or administrators in the township where the deceased last dwelt, until they shall give notice to the supervisors that the estate has been distributed and paid over to the parties interested;

¹As amended by Act 156, 1875.

Eighth. All property held by any religious society as a ministerial fund shall be assessed to the treasurer of such society; and if such property consists of real estate, it shall be taxed in the township where such property lies; if it consists of personal property, it shall be taxed in the township where such society usually holds its meetings.

Personal property when mortgaged.

(975.) SEC. 9. When personal property is mortgaged or pledged, it shall, for the purpose of taxation, be deemed the property of the person who has possession thereof.

Undivided real estate of deceased persons.

(976.) SEC. 10. The undivided real estate of any deceased person may be assessed to the heirs or devisees of such person, unless occupied by some other person to whom it may be assessed, without designating them by name, until they shall have given notice to the supervisor of the division of such estate, and the names of the several heirs and devisees; and each heir and devisee shall be liable for the whole of such tax, and shall have a right to recover of the other heirs and devisees their respective portions thereof, when paid by him.

Part-paid lands; how assessed.

(977.) SEC. 11. Any person holding a part-paid certificate of the purchase of university, primary school, State building, swamp, salt-spring, or other State lands, or occupying the same, shall be liable to be assessed therefor, as if he were the actual owner thereof: *Provided, however,* That the same shall be assessed as personal property, and not as real estate, and the tax thereon shall be collected in the manner hereinafter prescribed.

Partners; how taxed.

(978.) SEC. 12. Partners in mercantile or other business, whether residing in the same or different townships, may be jointly taxed under the partnership name, in the township where their business is carried on, for all the personal property employed in such business; and, if they have places of business in two or more townships, they shall be taxed in those townships for the proportion of property employed in such townships respectively; and, in case of being so jointly taxed, each partner shall be liable for the whole tax.

Terms defined.

(979.) SEC. 13. The term "money," or "moneys," whenever used in this act, shall be held to mean gold and silver coin, and bank notes, and every deposit, which any person owning the same, or holding in trust, and residing in this State, is entitled to withdraw in money on demand. The term "credits," whenever used in this act, shall be held to mean and include every claim and demand for money, or other valuable thing, and every annuity or sum of money receivable at stated periods, due or to become due, and all claims and demands secured by deed or mortgage, due or to become due. The terms "parcel of real property," and "parcel of land," whenever used in this act, shall each be held to mean any contiguous quantity of land in the possession of, owned by, or recorded as the property of the same claimants, person, or company. Every word importing the singular number only, may extend to and embrace the plural number; and every word importing the plural number, may be applied and limited to the singular number; and every word importing the masculine gender only, may be extended and applied to females as well as males.

Whenever the word "oath" is used in this act, it may be held to mean affirmation; and the word "swear," in this act, may be held to mean affirm. The words "town" or "townships," when used in this act, shall be construed to mean ward or city, as the case may be. The term "cash value," whenever used in this act, shall be held to mean the usual selling price at the place where the property to which the term is applied shall be at the time of assessment, being the price which could be obtained there for at private sale, and not at forced or auction sale.

(1980.) SEC. 14. Every person of full age and sound mind, and every firm, body politic, or corporate, shall, when called upon as hereinafter provided, forthwith make a full and true statement, in writing, to the supervisor of the township or ward in which he resides, in which shall be distinctly and truly set forth a correct description of all the real estate and personal property not by this act exempt from taxation, and not by the laws of this State subject to a specific tax, of which he or she is the owner or the holder, as guardian, parent, husband, or trustee, executor, administrator, receiver, accounting officer, partner, agent, or factor; and also all moneys and credits owned or held as aforesaid; and the cashier of any State or national bank, in said township or ward, when called upon as aforesaid, shall also truly and fully set forth the names and residence of all the parties owning shares or stock in such bank, the number and amount of such shares owned by said parties respectively, as the same shall appear upon the books of said bank, and in case of neglect or refusal so to do, said cashier shall be deemed guilty of a misdemeanor.

Statement to supervisors; who make, and what to contain.

(1981.) SEC. 15. Every person required by this act to make or deliver such statement, shall set forth an account of the property held or owned by him or them, as follows:

Itemised account of property.

First. An accurate description of each parcel of land, with the number of acres, and the number of acres improved, and the number and kinds of buildings thereon;

Second. The number of neat cattle six months old;

Third. The number of horses over six months old;

Fourth. The number of sheep over six months old;

Fifth. The number of hogs over six months old;

Sixth. Every wagon and carriage;

Seventh. Every gold or silver watch;

Eighth. The number of bushels of grain, and the quantity of all other farm produce in the possession of the producer;

Ninth. All merchandise not included in the eighth subdivision of this section;

Tenth. Every musical instrument of the value of one hundred dollars and upwards;

Eleventh. All moneys and all credits;

Twelfth. All other personal property held or owned by him, including the shares in any State or national bank in this State;

Thirteenth. The amount of moneys upon which he pays interest, providing he desires to have the same deducted from his moneys and credits;

Fourteenth. The amount of all other *bona fide* indebtedness, provided he desires to have the same deducted from his moneys and credits.

Supervisor may require statement to be subscribed, etc.

(1982.) SEC. 16. Such statement the supervisor may, in his discretion, require to be subscribed by the person making the same; and it shall further mention who is the owner of the property so described, and whether the same is held by him, the maker of such statement, individually, or in his own right, or whether held for any other person; and if held for any other person, then state for whom, in what capacity, or on what account so held, giving the name of the person for whom he holds.

Corporate property paying specific tax not to be included in statement.

(1983.) SEC. 17. No person shall be required to include in such statement any share or portion of the capital stock of any company or corporation, which company or corporation is by law exempt from taxation, or by law required to pay a specific tax in lieu of all other taxes on such share or portion of capital stock, or whose corporate property is subject to assessment under the provision of section four of this act.

Supervisors to furnish blank forms.

(1984.) SEC. 18. It shall be the duty of each supervisor, on or before the second Monday in May, to call upon each taxable person in his township, at his residence, boarding-place, or usual place of business, at which time he shall furnish each taxable person a blank form for the statements required by the fifteenth section of this act; and thereupon said taxable person shall forthwith make and deliver to said supervisor a full and true statement of the taxable property in his possession, according to the provisions of this act; and immediately thereafter the said supervisor shall proceed to examine said property, and estimate and set down the true value thereof, the same being the price which could be obtained therefor at private sale, and not at forced or auction sale, and being the true cash value as defined in section thirteen of this act, deducting from the moneys at interest and other credits of such person, the amount of money upon which he or she pays interest, together with his other *bona fide* indebtedness, as set forth in said statement.

Supervisor to estimate property at its cash value.

Statement when not made out; how to proceed.

(1985.) SEC. 19. In every case where any person shall neglect or refuse to make out and deliver a statement of his real and personal property, moneys, and credits, or to exhibit the same to the supervisor, as required by this act, it shall be the duty of said supervisor, and he is hereby authorized, to examine on oath the person so refusing, and any other person or persons whom he may have good reason to believe and does believe has knowledge of the amount or value of any property, moneys, or credits owned or held by such person so refusing; and said supervisor shall assess any property, money, or credits owned or held by such person so refusing, at its true cash value, as the same is hereinbefore defined: *Provided*, That if any person shall neglect or refuse to make such statement, or in case any person owning any taxable property in this State, or any money loaned in this State, shall be absent from the township or cannot be found therein by the supervisor of such township, during the time the assessment roll is required by law to be made,

Proviso.

leaving no agent known to such supervisor to make the required statement, such supervisor is hereby authorized to set down and assess to such person any amount of personal property he may deem just and proper, subject to reduction on review, upon oath of the party in interest, his agent or attorney.

(986.) SEC. 20. On the third Monday of May it shall be the duty of the supervisor of each of the several townships to be present at his office from eight o'clock in the forenoon until twelve, noon, and from one o'clock in the afternoon until five o'clock in the afternoon, for the purpose of reviewing his assessment, and so on the two next following days; and, on the request of any person, his agent or attorney, considering himself aggrieved, on sufficient cause being shown to the satisfaction of the supervisor, he shall alter the assessment in such manner as shall to him appear just and equal; and to this end he may in either case examine on oath the person making the application, or any other person present, touching the matter, which oath the supervisor is hereby authorized to administer. And it shall also be the duty of such supervisor to be and remain at his office during the time the commissioner of highways shall be employed in assessing the highway tax or taxes of his township, and render such assistance as may be required of him by such commissioner, in assessing such highway tax.

Review of assessment roll; when to be made.

Power to alter assessments.

Supervisor to assist commissioner of highways in assessing highway tax.

(987.) SEC. 21. The assessment roll shall contain the names of the resident persons liable to be taxed; a full description of the real estate of such persons; the number of acres in each tract or parcel, as near as the same can be ascertained; the estimated value of each tract or parcel, and the aggregate valuation of the personal estate of each person liable to be taxed, as appears from the statements in the possession of the supervisor.

Assessment roll; contents of.

(988.) SEC. 22. For the purposes mentioned in the preceding sections of this act, the Auditor General shall, before the first Monday in March in each year, prepare and transmit suitable blanks to the several county treasurers, who shall, before the first Monday in April, supply all the supervisors in their several counties with the same. The Auditor General is authorized and instructed to furnish, at the expense of the State, to each supervisor and assessor in the several townships and cities in this state, a copy of this law, at the earliest day practicable.

Auditor General to transmit blanks to county treasurers.

To furnish copies of law.

(989.) SEC. 23. The description of real estate may be as follows: *First.* If the land to be assessed be an entire section, it may be described by the number of the section, township and range;

Description of real estate.

Second. If the tract be a subdivision of a section authorized by the United States for the sale of the public lands, it may be described by a designation of such subdivision, with the number of the section, township and range;

Third. If the tract be less or other than such subdivision, it may be described by a designation of number of the lot or other lands by which it is bounded, or in some way by which it may be known;

Fourth. In case of lands surveyed or laid out as a city or village,

¹ As amended by Act 85, 1875.

and a plat thereof recorded in the register's office of the county, if the tract to be assessed be a whole lot or block, it shall be described by a designation of the number thereof; if it be a part of a lot or block, it may be described by its boundaries, or some other way by which it may be known, and it shall not be necessary to insert the quantity of such land in the assessment roll. When any lands have been or hereafter shall be laid out as a city or village, or as an addition of any city or village, and the same has not been duly recorded in the register's office of the county, and any one or more of the lots have been or may be sold by the numbers thereof, according to the plat of said city or village, or addition thereto, such land, laid out as aforesaid, may, in the discretion of the supervisor, be assessed in whole or in part, according to the subdivision as represented on the plat of said city or village, or in some other way by which it may be known; and if such subdivision or parcel be a whole lot or block, it shall be described by a designation of the number thereof; and if it be part of a lot or block, such part shall be defined, or it shall be described by its boundaries, or in some other way by which it may be known; and it shall not be necessary to insert the quantity or contents of such land in the assessment roll;

Fifth. If the land to be assessed be a tract of which the subdivision is not known to the supervisor, it shall be entered upon the roll by the boundaries thereof, or in some other way by which it may be known;

Sixth. Undivided shares or interests in lands shall be assessed to the owners thereof, if such ownership is known to the supervisor, and no tract in the same section, known to the supervisor to have been originally entered as one parcel, shall be subdivided in assessing, unless the fact of a subdivision having been made be known to the supervisor;

Seventh. It shall be sufficient to describe lands to be assessed or sold for taxes in the manner heretofore in use, by initials, letters, abbreviations, and figures.

Unoccupied
lands: how
assessed.

(990.) SEC. 24. All lands unoccupied and not claimed to be owned by any resident of the township where they are situated, and not exempt from taxation, may be assessed as non-resident lands, and it shall be the duty of the supervisor to enter the same on a part of the roll separate from that upon which the estates of residents are entered, and when real estate is occupied, it may be assessed to the occupant or supposed owner or person exercising control over the same. When a person is assessed as a trustee, guardian, executor, or administrator, a designation of his representative character may be added to his name, and such assessment shall be entered on a separate line from his individual assessment.

Property held in
trust.

Roll, when com-
pleted, to be
certified.

(991.) SEC. 25. When the supervisor has reviewed and completed the assessment roll, it shall be his duty to attach thereto, signed by him, a certificate, which may be in the following form: "I do hereby certify that I have set down in the above assessment roll all the real estate in the township of _____ liable to be

taxed, according to my best information, and that I have estimated the same at what I believe to be the true cash value thereof, and not at the price it would sell for at a forced or auction sale; that the said assessment roll contains a true statement of the aggregate valuation of the taxable personal estate of each and every person named in said roll, and that I have estimated the same at the true cash value, as aforesaid, according to my best information and belief."

¹ (992.) SEC. 26. It shall be the duty of the township clerk of each township, or of the proper officer of any ward or city, on or before the first day of October of each year, to make and deliver to the supervisor of his township or ward, a certified copy of all statements on file or of record in his office, of moneys proposed to be raised therein by taxation, for all purposes, together with a statement of the aggregate amount thereof, and such statements, duly certified by the township clerk, or the proper officer of the ward or city, shall by such supervisor be delivered to the clerk of the board of supervisors of the county within which such township or city is situated, on or before the second Monday of said month, and such statements shall, by said county clerk, be laid before the board at its annual meeting, and filed in his office.

Statement of money to be raised; statement of, to be delivered to supervisor by township clerk.

Supervisor to deliver same to clerk of board.

(993.) SEC. 27. The board of supervisors in each county shall, at their session in October in each year, examine the assessment roll of the several townships, and ascertain whether the relative valuation of the real estate in the respective townships has been equally and uniformly estimated. If, on such examination, they shall deem such valuation to be relatively unequal, they shall equalize the same by adding to or deducting from the valuation of the taxable property in the township or townships such an amount as in their judgment will produce relatively an equal and uniform valuation of the real estate in the county, and the amount added to or deducted from the valuation in each township shall be entered upon the records. They shall also cause to be entered upon their records the aggregate valuation of the taxable real and personal property of each township, ward or city in their county, as determined by them.

When board of supervisors to examine assessment rolls.

Power of board to equalize valuation.

Record of determination.

(994.) SEC. 28. The board of supervisors shall also make such alterations in the description of any lands upon such rolls as may be necessary to render such description conformable to the requirements of this act.

Alteration of description.

(995.) SEC. 29. After the assessment shall have been equalized, and the descriptions corrected, as provided in the two last preceding sections, it shall be the duty of the chairman of the board to make and sign a certificate, upon or appended to the roll of each township, which certificate may be in the following form, to wit:

Corrected roll to be certified by chairman of board.

"I do hereby certify that the board of supervisors have equalized and corrected the within roll, by adding to or deducting from the valuation of the real estate made by the supervisor thereon, or without adding to or deducting from the valuation of the real estate made by the supervisor, as the case may be, and have deter-

Form of certificate.

¹ As amended by Act 148, 1871.

mined the aggregate value of the taxable property in the township of _____ to be _____ dollars and _____ cents, for the year eighteen hundred _____.’’

Filing of roll.

Which assessment roll, certified as aforesaid, shall be delivered to the supervisor of the proper township, whose duty it shall be to file and keep the same in his office.

Auditor General
to apportion
State taxes, etc.

¹ (996.) SEC. 30. The Auditor General shall apportion the State tax among the several counties, in proportion to the valuation of taxable property therein, as determined by the last preceding State Board of Equalization, and shall, before the October session of the board of supervisors, make out and transmit to the clerks of the several boards the amount of such tax so apportioned by him to to the county, and shall charge the several amounts of such apportionments to the counties respectively. The Auditor General shall also include in the amount of the State tax so apportioned to any county, the amount of indebtedness of such county to the State, as shall be shown by the statement of the account between the county and the State, made by the Auditor General on the first day of July next previous to such apportionment, which amount shall be apportioned by the board of supervisors of the proper county at the same time as are the State taxes contained in such apportionment of the Auditor General, and shall be levied in the same manner as, and become a portion of, the county taxes of the same year: *Provided*, That the amount of county indebtedness included in such apportionment shall not be included in the amount of State tax charged to the counties, as provided in the first clause of this section.

Provided.

When board of
supervisors to
apportion taxes,
etc.

² (997.) SEC. 31. The board of supervisors shall, at said annual session, direct such part of each of the several amounts to be raised by any township, ward, or city, as appears by the certified statements provided for in section twenty-six to be authorized by law, to be spread upon the assessment roll of the proper township, ward, or city; said board shall also ascertain and determine the amount of money to be raised by tax for county purposes, and apportion such amount, and also the amount of State tax required to be raised among the several townships in the county, in proportion to the valuation of the taxable property therein for one year, as equalized by the board, which determination and apportionment shall be entered at large on their records, and there shall also be entered in full upon the records of the proceedings of such board its action upon each of the several amounts certified to such board, as proposed to be raised by taxation in the townships, wards, or cities therein, and the several amounts ordered, as hereinbefore provided, to be raised in the several townships, wards, or cities therein, which amounts shall be apportioned respectively upon the basis of the values as equalized by the board.

Record of deter-
mination, etc.

Certificates of
apportionment
by clerk of
board to county
treasurer.

³ (998.) SEC. 32. The clerk of the board of supervisors shall, immediately after such apportionment, make out two certificates of the amount apportioned to be assessed upon the property of each township for State, county, township, fractional school dis-

¹ As amended by Act 163, 1871.

² As amended by Act 148, 1871; also see Act 33, 1873.

³ As amended by Act 196, 1875.

tracts, and other purposes, one of which he shall deliver to the county treasurer, and the other to the supervisor of the proper township or ward; and the county treasurer shall charge the amount of the State and county taxes specified in such certificate to the proper township, ward, or city. The county clerk shall also open and keep an account with the treasurer of his county, and shall charge such treasurer with all funds which shall come into his hands by virtue of his office, and shall credit him with all moneys paid out by him on the order of the proper authorities of his county. He shall also open and keep a separate account with each of the several funds belonging to his county, and shall credit each of said funds with such amounts as properly belong to them, and shall charge them severally with all warrants drawn on the county treasurer, and payable from said funds respectively.

(999.) SEC. 33. The supervisor of each township shall proceed to assess taxes for the amount specified in such certificate, according and in proportion to the individual and particular estimate and valuation specified in the assessment roll of the township for the year. For the purpose of avoiding fractions in excess in said tax, the supervisor may add to the several amounts to be raised not more than one per cent; said excess, more or less, shall be paid into and belong to the contingent fund of the township in which it was assessed.

Assessment by supervisor.

Addition to contingent fund; how may be made.

(1000.) SEC. 34. The supervisor of each township, on or before the fifteenth day of November in each year, shall notify the township treasurer of the amount of State and county tax apportioned to his township, and such treasurer, on or before the twenty-fifth day of November, shall give to the county treasurer and his successors in office, a bond in double the amount of State and county taxes, with good and sufficient sureties, to be approved by the supervisor of the township, or the county treasurer, conditioned that he shall duly and faithfully perform the duties of his office, and shall deliver the same to the county treasurer.

When supervisor to notify town treasurer of amount of taxes, etc.

Bond of treasurer; to whom delivered.

(1001.) SEC. 35. The county treasurer shall file and safely keep such bond in his office, and on receipt thereof he shall give to the township treasurer a receipt, stating that he has received the bond required by the preceding section, which receipt the township treasurer shall deliver to the supervisor on or before the first day of December.

Receipt therefor delivered to supervisor.

(1002.) SEC. 36. The supervisor, after the delivery of such receipt, and on or before the first Monday of December, shall deliver to the township treasurer a copy of the corrected assessment roll of his township, with the taxes for the year annexed to each valuation, and carried out in the last column thereof; the school, library, two-mill, and school-house taxes in one column; the highway taxes in another, the township taxes in another, the county taxes in another, and the State taxes in another column; and if other taxes are at any time required by law, they shall be placed each in another column; and the warrant for their collection shall

When supervisor to deliver corrected roll to town treasurer.

Warrant for collection, what to specify.

Town clerk to charge amount of taxes to treasurer.

Per diem of supervisors, how paid.

Proviso as to Detroit.

Proviso as to Kalamazoo.

Warrant of supervisor commanding treasurer to collect, etc.

Power of board of supervisors to make new tax roll, and extend time.

When collector not to receive benefit of extension.

Interest on taxes extended, etc.

specify, particularly, the several amounts and purposes for which said taxes are to be paid into the township and county treasuries respectively. Before the supervisor shall deliver such assessment roll and tax list to the township treasurer, he shall carefully foot up the several taxes therein levied, and shall give to the township clerk of his township a statement thereof, and such township clerk shall immediately charge the amount of such taxes to the township treasurer. The supervisor and assessors shall be allowed for their services in assessing property and copying the tax rolls, and for extending the taxes thereon, at the rate of two dollars for each day actually and necessarily spent in perfecting the same, which shall be verified, audited, and paid in the townships, in the same manner provided by law for the payment of other township officers, and they shall receive payment from no other source: *Provided*, That the city of Detroit shall be exempted from the provisions of the last clause of this section, and the common council shall have power to fix and determine the compensation of the city assessor thereof: *Provided further*, That the township of Kalamazoo, in the county of Kalamazoo, shall also be exempted from the provisions of the last clause of this section, and the township board of said township shall have power to fix and determine the compensation of the supervisor of said township; but the amount paid for such services shall not exceed the sum of one thousand dollars per annum.

(1003.) SEC. 37. To such assessment roll and tax list a warrant under the hand of the supervisor shall be annexed, commanding such treasurer to collect from the several persons named in said roll the several sums mentioned in the last column of such roll opposite their respective names, and to retain in his hands the amount receivable by law into the township treasury for the purposes therein specified, and to account for and pay over to the county treasurer the amounts therein specified for State and county purposes, on or before the first day of February then next; and the said warrant shall authorize the treasurer, in case any person named in the assessment roll shall neglect or refuse to pay his tax, to levy the same by distress and sale of the goods and chattels of such persons.

¹(1004.) SEC. 38. The board of supervisors of any county shall have power to authorize the making out a new tax roll; to extend and determine by resolution the time when each collector or township treasurer in their county shall make his return to the county treasurer, but such time shall in no case exceed two months from the time fixed by the last previous section; and when an extension is had, each township treasurer or other collecting officer shall be authorized to levy and collect all taxes, as if such extension had not been granted. But no collector or township treasurer shall receive the benefit of such extension until he shall have paid over to the county treasurer, or other officer authorized to receive the same, all moneys collected by him up to the first day of February, which may be due; and in all cases interest shall be charged on all taxes extended from the first day of February, at the rate and

¹ As amended by Act 156, 1875.

in the manner provided in section seventy of this act; and for the purpose of collecting the taxes remaining unpaid, he shall call at least once upon the person taxed, if a resident, or at the place of his usual residence in the township, and shall demand payment of the taxes charged to him on such list; and in case of any tax assessed upon the shares of capital stock of any bank in such township, he shall call upon the cashier of such bank and demand payment thereof; and thereupon it shall be the duty of such cashier to pay the same, and charge the amount so paid against the shares of stock so taxed: *Provided*, That the township boards of any township, or the common council of any city, shall have the power to extend the time for the collection one month, whenever the boards of supervisors have neglected to so extend the time; and when the township board of a township, or the common council of a city, shall have extended the time as aforesaid, such extension shall be duly certified by the township clerk of the township, or the proper certifying officer of the city, to the county clerk of the county.

Collector to call for taxes remaining unpaid, etc.

Provido.

(1005.) SEC. 39. Whenever the time shall be extended within which any collector or township treasurer shall make his return, as contemplated by the last preceding section, the county clerk of such county shall certify to such action, and attach such certificate to the transcript of the county treasurer, to be forwarded to the Auditor General, as required by section sixty-seven of this act.

When time is extended county clerk to certify same for transmittal to Auditor General.

¹(1006.) SEC. 40. The taxes assessed upon any real estate of any resident or non-resident, and all legal charges made thereon, shall be a charge against the person owning the same on the second Monday of May, and shall be a lien on said real estate from the first Monday in December of the year in which such real estate was assessed, but it shall be lawful for the township treasurer to collect such taxes by distress and sale of the goods and chattels of any person who shall purchase such real estate after the second Monday in May, and occupy the same on the first Monday in December.

When taxes, etc., to be a lien on the real estate assessed.

(1007.) SEC. 41. Every township treasurer, upon receiving the tax list and warrant, shall, for the purpose of collecting the taxes therein mentioned, be and remain at his office or place of business on Friday of each and every week after receiving such list, until and including the last Friday in the month of December; and upon all taxes paid or tendered to him on such days, or at any other time before the first day of January next thereafter, he shall add one per cent for collection fees; and upon all taxes collected by him after the said first day of January, he shall add four per cent for collection fees: *Provided*, That the fees so added and collected shall be in full for his services as township treasurer, except as hereinafter provided: *And provided further*, That nothing in this act shall be construed as preventing the township treasurer, at any time when he shall deem it necessary, from proceeding in the manner hereinafter provided, to collect of any person the tax imposed upon him.

When township treasurer to remain in office to receive taxes.

Fees added.

Provido.

Ibid.

¹ As amended by Act 83, 1871.

Sale of estate to pay tax.

(1008.) SEC. 42. In case any person shall refuse or neglect to pay the tax imposed on personal or real estate belonging to him, the treasurer shall levy the same by distress and sale of the goods and chattels of said person, wherever the same may be found within his township.

Notice of.

(1009.) SEC. 43. The treasurer shall give public notice of the time and place of sale, and of the property to be sold, at least five days previous to the sale, by advertisement, to be posted up in three public places in the township where such sale shall be made, and the sale shall be by public auction.

Return by treasurer when sale is not made.

(1010.) SEC. 44. If the property so distrained cannot be sold for want of bidders, the treasurer shall return a statement of the fact, and if the tax be assessed on real estate, such real estate shall be returned in the same manner as if the same were non-resident lands.

Surplus from sale; how disposed of.

(1011.) SEC. 45. If the property distrained shall be sold for more than the amount of the tax and collection fees, the surplus shall be returned to the person in whose possession said property was when the distress was made.

In case of removal, tax may be collected in any part of county.

(1012.) SEC. 46. In case any person upon whom any tax may be assessed in any township shall have removed out of any township after the assessment and before such tax ought by law to be collected, it shall be lawful for the treasurer of such township to levy and collect such tax of the goods and chattels of the person so assessed, in any township within the county.

Proceedings when tax on personal property cannot be collected.

(1013.) SEC. 47. Whenever any township treasurer shall not be able to collect any tax on personal property on account of the absence of the person so taxed, or for any other cause, the county treasurer, if required, shall issue a new warrant to the treasurer of the township for such tax, and it shall be the duty of the township treasurer to renew his official bond; and thereupon the said warrant shall be and remain in force, for the purposes of such collection, until the next annual meeting of the board of supervisors, unless the tax is sooner collected; and the said township treasurer shall charge fifteen per cent interest on all such taxes, from the first day of February until the day of collection: *Provided*, Said bond shall not be renewed unless the tax uncollected shall exceed five dollars.

Proviso.

When town treasurer may sue for tax.

(1014.) SEC. 48. Whenever any tax which shall have been or may hereafter be assessed on personal property in this State shall be returned by any township treasurer for non-payment, under the provisions of this act, or when any tax shall have been assessed upon the shares of the stock of any bank owned by non-residents of this State, and the same shall not be paid by the cashier of such bank, on demand, as hereinbefore provided, it shall be lawful for such treasurer to sue, in the name of such township, the person or persons against whom such tax was assessed, or the bank issuing such shares of stock, as the case may be, before any court of competent jurisdiction, and to have, use, and take all lawful ways and means provided by law for the collection of debts, to enforce the payment of any such tax.

(1015.) SEC. 49. Executions issued upon judgments rendered for any such tax may be levied upon any property liable to be seized and sold under warrants issued for the collection of taxes by township supervisors, and collected in the same manner, in all other respects, as provided by law for the collection of judgments. Executions upon judgments; how collected, etc.

(1016.) SEC. 50. The production of any tax roll on the trial of any action brought for the recovery of a tax therein assessed may, upon proof that it is either the original tax roll and warrant or a duly certified copy thereof, of the township named as the plaintiff in such action, be read and used in evidence; and, if it shall appear from said assessment roll that there is a tax therein assessed against the defendant in such suit, it shall be *prima facie* evidence of the legality and regularity of the assessment of the same; and the court before whom the cause may be pending shall proceed to render judgment against the defendant, unless he shall make it appear that he has paid such tax, and no stay of execution shall be allowed on any such judgment. Original tax roll, etc., copy thereof may be used as evidence, etc.

(1017.) SEC. 51. Such township treasurer shall receive the tax, or any one of the several taxes, on any lot or parcel of land, or part thereof, or on any undivided share or other interest therein, which the tax-payer will clearly define; and if the remaining tax on such lot or parcel of land shall not be paid, the township treasurer shall enter a specification thereof in his return to the county treasurer; but if the part on which the tax is so paid shall be an undivided share, the person paying the same shall state to the treasurer the name of the owner of such share, that it may be excepted in case of the sale for the tax on the remainder, for which purpose the treasurer shall enter the name of such owner in his account of arrears of taxes. Treasurer shall receive tax on part of lot, etc., or on undivided share, etc.

(1018.) SEC. 52. The township treasurer shall retain in his hands the amount specified in his warrant to be paid into the township treasury, for the purposes therein specified, and shall, within one week after the time specified in his warrant for paying the money directed to be paid to the county treasurer, pay to such county treasurer the sum required in his warrant, either in delinquent taxes or in funds then receivable by law. When money shall be paid to county treasurer.

(1019.) SEC. 53. If any of the taxes mentioned in the tax list annexed to his warrant shall remain unpaid, and the township treasurer shall be unable to collect the same from the owner or occupant of the premises assessed, he shall make out a statement of the taxes so remaining unpaid and due, with a full and perfect description of such premises from his tax roll, and submit the same to the county treasurer. Return of taxes not collected.

(1020.) SEC. 54. The county treasurer shall immediately compare such statement with the tax roll in the hands of such township treasurer, and if he finds it to be a true transcript from the same, he shall add to it a certificate showing that he has examined and compared such statement with the tax roll in the hands of such township treasurer and found it correct, and shall file such statement so certified in his office: *Provided*, That the county treasurer shall, at the time of making such comparison and at no other Return to be compared with tax roll, etc.

Proviso.

County treasurer to reject.

time, reject and charge back to the proper township any lands which shall have been twice assessed, or any parcel which shall be so erroneously or defectively described that it cannot be ascertained.

When town treasurer to be credited with uncollected tax.

(1021.) SEC. 55. Upon making an affidavit to be annexed to such statement before the county treasurer or his deputy duly appointed, or before any officer authorized to administer oaths, that the sums mentioned in such statement remain unpaid, and that he has not, upon diligent inquiry, been able to discover any goods or chattels belonging to the person charged with or liable to pay such sums, whereupon he could levy the same, the township treasurer shall be credited by the county treasurer with the amount thereof, and for making the return aforesaid he shall be entitled to receive one dollar and fifty cents, and six cents per mile traveling fee, one way, to be allowed and paid to him by the county treasurer, together with two per cent on all taxes returned as delinquent; but no such treasurer shall be allowed more than ten dollars, including said two per cent for making his return.

Fee and mileage for making return.

Sworn statement of all moneys collected to be filed with county treasurer.

The township treasurer shall also make out, under oath, a statement of all moneys collected by him on account of taxes, and deliver such statement to the county treasurer, who shall file and preserve the same in his office.

Receipt by county to town treasurer.

(1022.) SEC. 56. The county treasurer shall give to the township treasurer a receipt, stating the amount of taxes returned by such township treasurer unpaid, and for which the township shall receive a credit on the books of the county treasurer, and shall also give such township treasurer a statement of all taxes rejected by such county treasurer out of such list, which receipt and statement shall be the vouchers of such township treasurer for the amounts therein specified.

When county treasurer to endorse as paid, the bond of town treasurer.

(1023.) SEC. 57. Upon the settlement of the amount of taxes directed to be collected by the township treasurer and paid to the county treasurer, such county treasurer shall endorse the bond of the township treasurer as paid up, which endorsement shall operate as a full discharge of the treasurer and his sureties from the obligation thereof, unless it shall afterwards appear that the return of

When bond to still continue in force.

such treasurer is false, in which case such bond shall continue in force, and such treasurer and his sureties shall be liable thereon for all damages occasioned by such false returns; and the township treasurer shall immediately deposit his tax roll and warrant with the county treasurer, who shall file and preserve the same in his office, and which said roll, or a duly certified copy thereof, shall, for all purposes, in all courts, suits, and proceedings, be taken, held, and used as evidence, in the same manner and with like effect as the original roll.

Tax roll and warrant deposited with county treasurer.

When town board may appoint a treasurer, etc.

(1024.) SEC. 58. In case the treasurer of any township shall refuse to serve, or shall die, resign, or remove out of the township before he shall have entered upon or completed the duties of his office, or be disabled from completing the same from any cause, the township board shall forthwith appoint a treasurer for the remainder of the year, who shall give like security, and be subject

to like duties and penalties, and have the same powers and compensation, as the treasurer in whose place he was appointed; and the township clerk shall immediately give notice of such appointment to the county treasurer, but such appointment shall not exonerate the former treasurer or his sureties from any liability incurred by him or them.

Notice of appointment to be given.

(1025.) SEC. 59. In case the township treasurer shall not collect the full amount of taxes required by his warrant to be paid into the township treasury, such portion thereof as he shall collect shall be retained by him, and paid out for the following purposes and in the following order, viz.:

Money retained by town treasurer; in what order to be paid out.

First. The amount raised for the general township purposes, to be paid on the order of the township board;

Second. The amount raised for school purposes, to be paid on the order of the school district officers;

Third. The amount of the highway taxes, to be paid on the order of the commissioners of highways.

(1026.) SEC. 60. In case of a distress and sale of goods and chattels for the payment of any tax, the township treasurer or other collecting officer may also collect on such sale one dollar and twenty-five cents over and above the tax, as his fees for making such sale, which fees and percentage hereinbefore provided shall be in full for his services in collecting such taxes; and in case payment of such tax shall be made after the distress and before the sale, it shall be lawful for such township treasurer or collecting officer to require the payment of one dollar and twenty-five cents as his fee for making such distress, and to enforce payment of the same, if need be, by making the sale notwithstanding the tax shall have been paid.

Fees of town treasurer in case of sale.

(1027.) SEC. 61. In case the township treasurer shall neglect or refuse to file his bond with the county treasurer, in the manner and within the time prescribed by law, and the township board shall fail to appoint a treasurer who shall give such bond and deliver a receipt for the same to the supervisor by the tenth day of December, the supervisor shall deliver the tax roll and warrant to the sheriff of the county, who shall by himself or his deputy, before he receives said tax roll, execute and deliver the bonds required of the township treasurer, and make like collections and returns, and shall be entitled to the same compensation allowed to the township treasurers, on all taxes so handed over to him for collection; and, for the purpose of collecting the same, shall be vested with all the powers conferred upon the township treasurer.

When supervisor to deliver up roll and warrant to sheriff.

Powers and duties of sheriff thereon.

(1028.) SEC. 62. The township treasurer or other collecting officer, on receipt of any tax, shall give a receipt for the same, and shall note on his tax roll the payment thereof, and if any such treasurer or other collecting officer shall willfully return to the county treasurer as unpaid any taxes which have been paid to him, he shall be deemed guilty of a misdemeanor, and shall on conviction thereof be punished by imprisonment in the county jail not

Receipt by collecting officer on payment of tax.

¹ As amended by Act 83, 1871.

² As amended by Act 8, 1877.

Punishment for willfully returning as unpaid, taxes which have been paid.

exceeding one year, or by fine not exceeding five hundred dollars, or both, in the discretion of the court, and be liable, together with the surety in his bond, to any person injured by such false return, to the full amount of any loss sustained thereby.

When county treasurer to issue warrant levying upon goods, etc., of town treasurer and sureties.

(1029.) SEC. 63. If any township treasurer, ward collector, or other collecting officer shall neglect or refuse to pay to the county treasurer the sums required by his warrant, or to account for the same as unpaid, as required by law, the county treasurer shall, within ten days after the time when such payment ought to have been made, issue a warrant under his hand, directed to the sheriff of the county, commanding him to levy such sum as shall remain unpaid and unaccounted for, together with his fees for collecting the same, of the goods and chattels, lands and tenements of such township treasurer, ward collector, or other collecting officer, and their sureties, and to pay the said sums to such county treasurer, and return such warrant within forty days from the date thereof.

Duty of sheriff to execute and make return of such warrant.

(1030.) SEC. 64. The county treasurer shall forthwith deliver such warrant to the sheriff of his county, who shall immediately cause the same to be executed, and shall make return thereof to the county treasurer within the time specified for the return thereof, and pay to such treasurer the amount collected on such warrant, and such sheriff shall be entitled to collect and receive the same fees as are allowed by law to sheriffs on executions.

Proceedings against sheriff for neglect or false return.

(1031.) SEC. 65. If any sheriff shall neglect to return any such warrant, or to pay the money collected thereon, within the time limited for the return of such warrant, or shall make a false return thereto, the county treasurer shall proceed by attachment, in any court of competent jurisdiction, against such sheriff, to collect the whole sum directed to be levied by such warrant, in the same manner and with like effect as for neglecting to return an execution in a civil suit, and the proceedings thereon shall be the same in all respects.

Ibid.

(1032.) SEC. 66. In case the county treasurer shall fail to collect such moneys by attachment, he shall forthwith cause a prosecution to be had against the sheriff and his sureties for the sum due on such warrant, which sum when collected shall be paid to the county treasurer.

County treasurer to enter return of lands delinquent for taxes, and make transcript, etc.

(1033.) SEC. 67. When any county treasurer shall receive from a township treasurer a statement of unpaid taxes on the lands of residents or non-residents, verified according to law, such county treasurer shall enter the same at length on the books in his office, provided for the purpose, and he shall make a correct transcript thereof of all the descriptions of land returned as delinquent for unpaid taxes, except such as may have been rejected by said county treasurer, which transcript shall be compared by the county clerk with the statement of the township treasurer, as certified by the county treasurer, and, if he finds it to be a true transcript thereof, he shall add to it a certificate that he has examined and compared the same with the certified statement of the township treasurer, and found it correct.

County clerk to compare same.

¹(1034.) SEC. 68. Such transcript, so made, compared, and

¹ As amended by Acts 90, 1873, and 196, 1875.

certified, shall be forwarded by the county treasurer to the Auditor General, by the first day of March next after the return of such statement; but such transcript shall be receivable at any time during said month of March, and, when received by the Auditor General, the amount thereof shall be placed to the credit of the proper county, on the books in his office, and a receipt of the same given to the county treasurer.

Transcript to be forwarded to Auditor General. When receivable and how credited.

(1035.) SEC. 69. If the taxes on any real estate, assessed to a resident or owner thereof, shall be returned unpaid, the same proceedings shall be had thereon, in all respects, as in cases of lands assessed as non-resident, and with like effect.

Resident real estate; proceedings on return of.

(1036.) SEC. 70. Any person may pay the taxes or any one of the several taxes on any parcel of lands returned as aforesaid, or on any undivided share thereof, with interest calculated thereon from the first day of February next after the same were assessed at the rate of ten per cent per annum, and the office charges, and four per cent as a collection fee, to the treasurer of the county in which the lands are situated, at any time before they are sold for taxes, or to the State Treasurer on the certificate of the Auditor General, at any time before the twentieth day of September, next preceding the time appointed for such sale: *Provided*, That on all taxes remaining unpaid on the first day of June next after the same were assessed, interest shall be computed at the rate of twenty per cent per annum from said first day of June.

Payment of taxes after return.

Provida.

(1037.) SEC. 71. The county treasurer and Auditor General shall add for office charges upon each certificate containing one description, thirty cents; and for each additional description in the same certificate, five cents; and the amount received by the county treasurers for charges and for collection fee shall go into the county treasuries, of which they shall keep an accurate account; and the amount received at the State Treasurer's office shall go into the State Treasury, to the credit of the general fund.

Office charges; how disposed of.

(1038.) SEC. 72. The county treasurers shall issue duplicate receipts for all taxes received by them, which shall not operate as a discharge of the taxes until countersigned by the county clerk, and one of said duplicates shall be left with such clerk; but no additional charge shall be made for issuing duplicate receipts.

Duplicate receipts by county treasurer.

(1039.) SEC. 73. The duplicates of such receipts shall be filed by the county clerk, who shall make an entry of the amount for which every such receipt was given, with the name of the person paying such tax, in a book to be provided by him for that purpose, at the expense of the county, and shall, on the first Monday of each month, forward all the receipts on file in his office to the Auditor General in such manner as he may direct.

Entry to be made of same by county clerk and forwarded to Auditor General.

(1040.) SEC. 74. Every county treasurer who shall have received into the treasury of his county sufficient to make up the amount of taxes assessed for township and county purposes, shall make returns, at least once in three months, to the Auditor General, and shall pay to the State Treasurer, at such times and in such manner

County treasurers' return to Auditor and payments to State Treasurer.

¹ As amended by Act 17, 1875.

² As amended by Act 106, 1873.

as he shall direct, the amount received by him for delinquent taxes, payable to such State Treasurer.

When taxes to be refunded with interest.

(1041.) SEC. 75. Whenever the taxes on any land returned to the office of the Auditor General for non-payment shall have been paid by the owner of such lands, his agent or attorney, in cases where such land was not subject to taxation at the date of the assessment of such taxes, the Auditor General, on discovering the same, shall, on application of the person entitled thereto, refund the taxes so paid, with interest at seven per cent: *Provided*, Such application shall be made within four years from the time this act takes effect, and in case of taxes hereafter paid, within four years after such payment.

Proviso.

When excess to be paid into State treasury.

(1042.) SEC. 76. Immediately after the returns of the several township treasurers to the county treasurers, in all cases where the amount collected shall exceed the amount raised for county and township purposes, the county treasurer shall forthwith pay into the State treasury the excess collected, as aforesaid, for which amount the said counties shall be credited by the Auditor General on account of the State tax, for the proper year.

OF THE SALE OF LANDS FOR TAXES, AND THE CONVEYANCE AND REDEMPTION THEREOF.

Providing for sale and redemption of lands.

(1043.) SEC. 77. All lands returned to the Auditor General, as provided by law, upon which the taxes, interest, and charges shall not be paid, or be charged back to the proper county, shall be subject to sale and redemption as hereinafter provided, and shall be sold in the same county from which they were returned, or in which the lands were situated at the time such taxes were assessed.

Auditor General to make statements of lands, specifying, etc.

(1044.) SEC. 78. On the first day of July of each year, the Auditor General shall make out a separate statement of all such lands as the taxes shall remain due upon, in each of the respective counties, specifying the amount of taxes due on each parcel, the interest thereon, computed as is provided in section seventy of this act, to the first day of October thereafter, together with the costs of advertising, postage, expense of sale, and returns thereon and conveyances, which shall be charged at one dollar upon each parcel of land contained in such list; and accompanying or preceding such statements the Auditor General shall cause to be published, as hereinafter shall be provided, a list of all lands not sold by the several county treasurers at the time prescribed by law, on account of error in advertising, or other cause, not affecting the legality of the assessment, or requiring a rejection of the taxes thereon, and on which the taxes, interest, and charges still remain unpaid or not otherwise discharged for the taxes of any year prior to that for which the statements above mentioned are made up; also, a notice of sale, by the county treasurer, of State tax lands; and deeds given by the Auditor General or his deputy to purchasers at such sales, or their assigns, shall take effect according to the year's tax for which the deed may be given, the deed for the latest year's tax taking precedence; and the interest on such re-advertised lands shall

Publication of list of lands not sold on account of error.

Deeds given by Auditor General or deputy.

be computed at the same rate as in other cases, up to the time of the ensuing annual tax sales.

¹(1045.) SEC. 79. The Auditor General shall cause each of such statements to be published in the county in which the lands therein described are situated, for four weeks successively, next previous to the first Monday of October, in each year (which shall be construed to mean four publications, once a week), in one newspaper printed and published in such county, if there be one which shall have been established therein two months prior to the first day of July; and, in case there is no such newspaper printed and published in the county, such statement shall be printed and published in an adjoining county, if there be such newspaper established therein, for the period aforesaid; but, if there is no such newspaper printed or published in the same or any adjoining county, such statement shall be printed and published in some other newspaper to be designated by the Auditor General.

Publication of statement in county where lands are situated.

¹(1046.) SEC. 80. The newspapers in which such statements are to be published shall be designated by the Auditor General, on or before the first day of August in each and every year, and not afterwards, unless the proprietor of any paper so designated shall fail to accept such designation before the fifteenth day of the said month of August, or shall neglect or refuse to print and publish such statement, or unless from some other cause it shall become impracticable; in which case the Auditor General shall designate some other paper for that purpose, before the time limited for commencing the publication.

Papers to be designated by Auditor General.

(1047.) SEC. 81. The proprietor of any paper accepting such designation shall transmit to each of the county treasurers one copy of each of the first two numbers of his paper containing such statement, and to the Auditor General one copy thereof during the whole time of such publication; for printing and publishing such statement and furnishing copies of his paper as herein required, and publishing the notices required by the sections seventy-eight, eighty-two, and one hundred and twenty of this act, he shall receive not to exceed forty cents for each description of land so advertised; and no printer shall be paid for publishing any such statement who shall not forward to the Auditor General, within thirty days after the last publication thereof, an affidavit, made by some person to whom the facts are known, stating such publications, and also that he has transmitted to each county treasurer, by mail, copies of the two first numbers of his papers containing such statement immediately after their publication.

Proprietor of paper to furnish county treasurer and Auditor General with copy.

Payment for printing, etc.

(1048.) SEC. 82. The Auditor General shall annex to and cause to be published with each of said statements, a notice that so much of each tract or parcel of land described in said statement as will be necessary for that purpose will be sold by the county treasurer, on the first Monday of October next thereafter, at such public and convenient place at the seat of justice of the county as the county treasurer may select, for the payment of the taxes, interest, and charges thereon.

Notice of sale to be published with statement.

¹ As amended by Act 65, 1873.

When Auditor to furnish lists of lands to be withheld from sale.

(1049.) SEC. 83. As soon after the first Monday of September as shall be practicable, the Auditor General shall prepare and transmit to the several county treasurers, lists of all lands described in the respective statements on which the taxes, interest, and charges shall have been paid, which lands, together with all the lands whereon the taxes, interest, and charges shall have been paid to the county treasurer before the sale, shall be struck from the statement of lands advertised to be sold by the respective county treasurers, and shall be withheld from sale.

Sale, how made.

(1050.) SEC. 84. On the day designated in the notice of sale, the several county treasurers, under the direction of the Auditor General, shall commence the sale of those lands on which the taxes shall not have been paid as aforesaid, and shall continue the same from day to day (Sundays excepted), until so much of each parcel thereof shall be sold as shall be sufficient to pay the taxes, interest, and charges thereon: *Provided*, That every description of land embraced in said notice, which has been bid off to the State at a previous sale, and which remains unredeemed or otherwise disposed of, shall be bid off to the State by said county treasurers; and any sale made in contravention of this proviso shall be absolutely void and of no effect.

Proviso

When less than whole of parcel is sold.

(1051.) SEC. 85. In case less than the whole of any parcel described in the statements aforesaid shall be sold for the taxes, interest, and charges thereon, the portion thereof sold shall be taken from the north side or north end of such parcel, and shall be bounded on the south by a line running parallel with the northerly line thereof, unless the same be an irregular fraction; in which case the portion thereof so sold shall be bounded on the south by a line running due east and west.

Payment of bids; when to be made, etc.

(1052.) SEC. 86. The county treasurers may, in their discretion, require immediate payment of any person to whom any parcel of such land shall be struck off; and in all cases where payment is not made in twenty-four hours, he may declare the bid canceled, and at his discretion sell the land again; and any person to whom any parcel of land shall be so struck off, neglecting for twenty-four hours after the close of such sale to pay to the county treasurer the amount of such bid, shall forfeit to the State five times the amount of such bid, which amount may be recovered, in the name of the people of the State of Michigan, in an action of debt, in any court of competent jurisdiction.

When lands to be bid off for State.

¹ (1053.) SEC. 87. If any parcel of land cannot be sold to any person, for the taxes, interest, and charges, such parcel shall be passed over, for the time being, and shall, on the succeeding day, or before the close of the sale, be re-offered; and if, on such second offer, or during such sale, the same cannot be sold for the amount aforesaid, the county treasurer shall bid off the same for the State: *Provided*, That from and after the passage of this act, if the treasurer of any county shall, for any reason, fail to offer the lands lying therein and advertised as for sale for delinquent taxes thereon, then so many of the lands so advertised as shall

Proviso.

¹ As amended by Act 148, 1877.

not be so offered for sale shall be considered and treated as if bid off for the State by the county treasurer, and shall be subject to redemption and sale, in the same manner, and within the same time as may be provided by law in the case of lands actually bid off for the State, as is provided in the first clause of this section.

(1054.) SEC. 88. All lands bid off for the State, as provided in the last preceding section, shall continue liable to be taxed in the same manner as if they were not the property of the State, and such taxes shall be a charge upon such lands. Lands so bid off liable to be taxed.

(1055.) SEC. 89. The several county treasurers shall receive, on such sales, such funds only as shall at the time be receivable by law at the State treasury; and all moneys received at such sales shall be paid into the State treasury on or before the fifteenth day of November next after the time of such sale, and the expenses of advertising and sale shall be paid therefrom on the Auditor General's warrant, and the remainder shall be placed to the credit of the general fund as received. Funds receivable at sales, and how disposed of.

(1056.) SEC. 90. At the sale aforesaid, the respective county treasurers shall give to the purchasers, on the payment of their bids, a certificate in writing, describing the lands purchased and the amount paid therefor, and such certificate shall be regularly numbered, and a copy of each forwarded by the county treasurers to the Auditor General, in such manner as he shall direct. Certificate of sale.

¹(1057.) SEC. 91. On presentation of such certificate of sale to the auditor general or his deputy, after the expiration of the time provided by law for the redemption of land sold as aforesaid, the auditor general or his deputy shall execute to the purchaser, his heirs or assigns, a deed of the land therein described, unless the sale thereof shall have been redeemed or annulled as by law provided, which deed shall be *prima facie* evidence of the regularity of all the proceedings, from the valuation of the lands by the assessors to the date of the deed inclusive, and of title in fee in the purchaser, and every such deed shall be witnessed and acknowledged in the manner prescribed by law for witnessing and acknowledging deeds in other cases. Deed to purchaser.

¹(1058.) SEC. 92. In case of the loss of such certificate of sale, the purchaser, or his legal representative or assignee, may file his affidavit of such loss, and that he was, at the time of such loss, the *bona fide* and legal holder thereof; and the auditor general or his deputy shall thereupon execute, as aforesaid, a deed for the lands described in such certificate, if the same shall not have been redeemed, in the same manner as though it had been presented and surrendered; and, if the same shall have been redeemed, on the presentation of such affidavit, the money shall be paid to such person in the same manner as though the certificate of sale had been surrendered. Any person who shall make an affidavit as above required, or concerning any other matter which may be filed in the office of the auditor general, shall be liable to the penalties of perjury, for any false statement made in such affidavit with intent to Proceedings when certificate of sale is lost.

¹As amended by Act 18, 1879.

defraud, upon conviction thereof, before a court having jurisdiction of the offense.

Redemption of
lands.

¹ (1059.) SEC. 93. Any person owning any of the lands sold as aforesaid, or any interest therein, may, on or at any time previous to the thirtieth day of September next succeeding such sale, redeem any parcel of said lands, or any part or interest in said lands, by showing to the satisfaction of the Auditor General or county treasurer, that he owns only that part or interest in the same which he proposes to redeem, and by paying at his option into the State treasury, or to the treasurer of the county where such land is situated, the amount for which such parcel was sold, or such portion thereof as the part or interest redeemed shall amount to, with interest thereon at the rate of twenty-five per cent per annum; which interest shall be paid by the State Treasurer to the purchaser.

Interest, how
computed.

(1060.) SEC. 94. When any land shall be redeemed as provided in the preceding section, the interest shall in all cases be computed from the day of sale up to the end of the current quarter of the year limited for such redemption.

Verification of
redemption to
county clerk, who
shall file.

(1061.) SEC. 95. Upon the payment of the redemption money and interest to the county treasurer as aforesaid, he shall issue duplicate certificates of redemption in the usual form, both of which certificates shall be countersigned by the county clerk, who shall make an entry of the number of each certificate, the amount for which it was given, and the name of the person paying the same; one of which certificates shall be delivered to the person making the payment, and the other shall be transmitted by the county clerk to the Auditor General, on the first Monday in each month, in the same manner as is now required for the transmission of duplicate receipts.

When Auditor is
charged county
with amount of
certificate, etc.

(1062.) SEC. 96. The total amount of such redemption certificate shall be charged by the Auditor General to the county returning the same, if the amount shall be found by the books of his office to be due such county; and, if not thus due, then the said amount shall be deposited in the State treasury by the county treasurer, at such times as the Auditor General shall require; and if the said county treasurer shall refuse or neglect for thirty days after such requirement to pay over or deposit the amount as aforesaid, he shall be subject to a prosecution by the Auditor General, under the provisions of the thirty-sixth section, chapter one hundred and fifty-four, of the revised statutes of eighteen hundred and forty-six, and upon conviction, shall be punished as therein mentioned.

Bond of county
treasurer to
Auditor General.

² (1063.) SEC. 97. Every county treasurer shall, before entering upon the duties of his office, execute to the Auditor General a bond, in such a sum as the said Auditor shall direct, with three or more sureties, to be approved of by the prosecuting attorney, probate judge, or circuit court commissioner of the proper county, and the said Auditor General, conditioned that such treasurer, his deputy, and all

¹ As amended by Act 17, 1875.

² As amended by Act 47, 1873.

persons employed in his office, shall render a just and true account of all moneys received by him or them for the sales of lands at the annual tax sales, and for redemption thereof, and all other money which may otherwise come into his or their hands, belonging to the State, and that he or they shall faithfully and promptly pay to the State Treasurer all such moneys received as aforesaid, within thirty days after the receipt thereof, and at other times whenever required so to do by the Auditor General, which bond shall be filed in said office of said Auditor. And whenever, after the filing of the bond herein required, the sureties thereon shall be deemed insufficient by the Auditor General, or the amount for which the bond was executed shall be deemed too small, he may require of the county treasurer whose sureties are so deemed insufficient, additional surety or sureties, to be re-approved as aforesaid, and for such further sum as he may deem necessary. And if any county treasurer whose sureties are so deemed insufficient shall fail to procure other and satisfactory sureties, and for such increased amount as may be directed by the Auditor General, within ten days after he shall have received notice of such requirement or requirements, such failure may be deemed sufficient cause for the removal from office of such county treasurer, and the provisions of this act shall apply to county treasurers who have filed bonds with the Auditor General, as heretofore required, except as to the time of filing thereof. And all county treasurers who have not filed bonds as required, shall, immediately upon the approval of this act, file the bond herein required, and conditioned as above provided.

When sureties insufficient, additional may be required.

Failure to furnish, cause for removal.

(1064.) SEC. 98. In case the said county treasurer shall refuse or neglect to execute and file such bond at the time and in the manner aforesaid, the Auditor General shall employ, in behalf of the State, some other person to conduct the annual sales of lands delinquent for taxes, and to receive payment therefor, under his direction, any law to the contrary notwithstanding, upon such person executing and filing with the said Auditor a similar bond, with sureties as above mentioned, to be by him approved, conditioned for the faithful and prompt payment to the State Treasurer of all moneys which may come into his hands as the proceeds of such sale or otherwise, belonging to the State, whenever required so to do by the Auditor General, as aforesaid; and a reasonable compensation for the services of such person shall be allowed and paid out of said proceeds.

When Auditor General may employ some person other than county treasurer to conduct sales, etc.

(1065.) SEC. 99. If the Auditor General shall discover before the sale of any lands, as aforesaid, that for any reason they should not be sold, he shall cause the same to be withheld from sale; and if the error through which said lands were offered for sale originated with the township or county officers, the amount for which they were so offered shall be charged against the county from which the tax was returned, and the supervisors of such county shall cause the same to be refunded to the State treasury.

Proceedings in case of irregularity.

(1066.) SEC. 100. Whenever any lands returned to the office of the Auditor General shall have been sold on account of non-payment of taxes thereon, if the Auditor General shall discover, before a conveyance of said land is executed and delivered—

Ibid.

TAX LAW.

First. That the land so sold was not subject to taxation at the date of the assessment of the taxes for which it was sold; or

Second. That the taxes had been paid to the proper officer within the time limited by law for the payment or redemption thereof; or,

Third. That such sale was in contravention of section eighty-four of this act; or,

Fourth. That a certificate that no taxes were charged against said land has been given by the proper officer, within the time limited by law for the payment or redemption thereof, he shall withhold a conveyance of such lands, and shall, on demand, cause the money paid therefor to be refunded to the purchaser, with interest thereon at seven per cent: *Provided*, That in the last mentioned case the person in whose behalf such certificate was given shall, at the time of presenting such certificate to the Auditor General, pay to the State Treasurer, on the statement of the Auditor General, all taxes and charges due to the State upon such land at the time such certificate was issued.

Provided.

Persons interested in lands so sold may take proofs before circuit court commissioner.

(1067.) SEC. 101. Any person having an interest in any lands sold as aforesaid for delinquent taxes, whether in his own right or in trust, or as executor, administrator, guardian, or trustee, may, at any time within two years from the date of the purchase, and in cases of sales at any time heretofore made by the county treasurer as aforesaid, within one year from the time this act shall take effect, and not after those periods, as hereinafter provided, make an affidavit, and file the same with the circuit court commissioner of the county in which the land is situated, setting forth that the taxes have been paid to the proper officer, or that he has good reason to believe and does believe that there are irregularities in the assessment and subsequent proceedings affecting the rights of the owner of said land, which prevented the payment of the taxes or the redemption thereof, and especially setting forth such and all such objections and alleged errors on which he relies. He may take the depositions of such witnesses before said circuit court commissioner, touching the facts required to be set forth in the affidavit on file, in the same manner and form prescribed by law and the rules of court for taking depositions, to be used in the circuit court in chancery, but not less than twenty days' notice shall be given, and at the same time a copy of the affidavit on file, to all persons having an interest in the title purchased from the State as aforesaid, of the time and place of taking such depositions, at which time and place the holder of the tax-title may take the depositions of such witnesses as he may deem necessary, either for the purpose of impeaching the witnesses of the other party, or otherwise sustaining his said title, or in any wise affecting the issue. The commissioner shall have power to administer oaths to all such witnesses, whose depositions either party may desire, and may issue subpoenas for witnesses, and may continue the time of taking the testimony as justice may require; and said depositions, when so taken, together with the affidavit and all other papers on file, shall, within ten days after the closing of the taking of the same, be delivered by the commissioner to the clerk of the circuit court of that county,

Notice to persons interested in title from State.

Power of commissioner, etc.

Court to examine testimony and render judgment.

together with such objections to the testimony as may be taken by either party; and the court shall thereupon, at the next or some subsequent term, proceed to examine the testimony, and if the court shall be satisfied that any of the reasons required to be and so set forth in the affidavit on file, claiming to affect the rights of such party in interest, prevented the payment of the taxes, or that the taxes have been paid to the proper officer within the time prescribed by law for the payment or redemption thereof, said court shall render judgment accordingly, annulling said title or otherwise affirming it, as the case may be, which judgment shall be recorded as other judgments in said court, subject to be reviewed on writ of *certiorari* by the Supreme Court at any time within two years: *Provided*, That if either party shall so direct, he shall have, as in other cases, a trial of the matters of fact before said circuit court by a jury: *And provided further*, That the party may present such affidavit at any time within five years from the date of the purchase—

First. When the land sold as aforesaid was not subject to taxation at the date of the assessment of the taxes for which it was sold;

Second. When the taxes upon the land sold as aforesaid have been paid to the proper officer, within the time limited by law for the payment or redemption thereof, and the party holds said officer's receipt therefor.

(1068.) SEC. 102. Whenever any judge of the circuit court shall have annulled, for any of the reasons enumerated in the preceding section, the title to any description of land conveyed in any deed executed by the Auditor General as aforesaid, or any part thereof, the clerk of the circuit court of the county in which the land is situated shall, on application of either party, and the payment of fifty cents, make and deliver to such party a certified copy of such judgment. And whenever such copy of judgment shall be presented to the register of deeds of said county, where said deed shall have been recorded, the register shall record the same, and make a short written memorandum on the margin or face of the deed, of the description of the land, and that the title has been annulled or affirmed, as the case may be, and the date of the judgment, and of the recording thereof.

(1069.) SEC. 103. In all cases where lands sold for taxes have been conveyed by deed, and the title has been annulled pursuant to law, for any causes enumerated in section one hundred and sixty-four of this act, the Auditor General shall, on presentation of a copy of the judgment annulling the same, refund to the holder of said title the purchase money and interest thereon, as the law requires, and certify the fact to the proper county treasurer.

(1070.) SEC. 104. Such money, when paid by the State Treasurer, shall be refunded to the State treasury by the proper county, and, in any action of ejectment brought by the owner to recover such lands, the State shall not be liable to costs.

Proviso.

Ibid.

Clerk of court to make copy of judgment on application.

Register of deeds to record same on presentation.

When purchase money, etc., to be refunded to holder of annulled title.

Such money to be refunded the State by the county, etc.

STATEMENT OF ACCOUNTS AND SETTLEMENT THEREOF WITH THE COUNTIES.

When Auditor General to state account of county treasurers.

(1071.) SEC. 105. The Auditor General shall state the account of the several county treasurers, on the first day of July in each year, allowing to the several counties ten per cent. interest on such portion of the taxes unpaid on the first day of February in the same year, as shall belong to them, for township and county purposes, and shall transmit a copy thereof by mail, or otherwise, to the county clerk, who shall lay the same before the board of supervisors at their first meeting after the receipt of the same.

Annual settlement.

¹(1072.) SEC. 106. When the return of the sale of land delinquent for taxes assessed thereon, is received by the Auditor General from the treasurer of any county, the Auditor General shall make and deliver to the county treasurer making such return, a transcript of the account between said county and the State as it appears upon the books in the Auditor General's office, deducting from the amounts of the credits thereof, the amount of bids to the State as appears from such county treasurer's return of tax sales; and the balance, as is shown after deducting such bids to the State, shall be paid to or by the county, as by such transcript is shown should be done. This section shall be so construed as to provide for such a settlement of accounts between the State and the several counties, as shall require the counties to carry the uncollected taxes until the period of redemption expires, after which time the State shall carry such taxes.

Fees of county treasurers for duties at sales.

(1073.) SEC. 107. For performing the duties pertaining to the sale of lands for non-payment of taxes, each county treasurer shall be entitled to the following fees:

For each transcript of lists of lands advertised to be offered for sale by the county treasurer, made by him or his employees, two cents for each description of land correctly transcribed;

For making entry in sales' books, showing the disposition of the land therein described, two cents for each entry correctly made;

For making certificates of sale, two cents for each description of land sold to individuals and correctly certified;

To be in full for all services.

Which fees shall be in full for all services rendered by the county treasurer in connection with the annual sale of lands for the non-payment of taxes: *Provided*, That in addition to the above fees each county treasurer shall be paid the actual necessary expenses incurred in making to the Auditor General the return of such sale as required by law: *And provided further*, That if any county treasurer shall fail to make his return of tax sales to the Auditor General in the manner and within the time required by law, he shall not be entitled to any part of the pay provided in this section.

Proviso.

Ibid.

Proceedings when Auditor ascertains that a tax returned has been paid.

(1074.) SEC. 108. Whenever it shall come to the knowledge of the Auditor General that any tax returned to his office has been paid to the township or county treasurer, or that there was a double assessment upon any lands, or that any parcel was so erroneously or defectively described that it cannot be sold, or that

¹ As amended by Act 162, 1871.

any parcel was not subject to taxation at the time said taxes were assessed, he shall forward to the treasurer of the county in which such lands shall then be situated, or to which they may be attached, a description of such lands, together with a statement of the amount of taxes, interest, and charges thereon, and specifying for what year or years such taxes were originally assessed.

(1075.) SEC. 109. The Auditor General is authorized and required, in all cases where taxes upon lands returned delinquent to his office shall be rejected for any cause, or having been credited shall be charged back on the books of his office, to charge the same over to the county from which such taxes were returned, unless the lands upon which the same were assessed shall have been so set off to some other county, or attached to some other county for judicial purposes; and in case such lands shall have been so set off or attached, they shall be charged to the county to which they belong at the time of such rejection.

Auditor to charge rejected taxes to county.

(1076.) SEC. 110. The county treasurer receiving such certificate of the Auditor General, shall lay the same before the board of supervisors at their next session thereafter, and if such taxes shall have been rejected or charged back by the Auditor General, except for the reason that such land was not subject to taxation at the time of the assessment for such taxes, or that the taxes thereon had been once paid, or that there had been a double assessment thereof, the board of supervisors shall cause the same to be re-assessed upon the same land, and collected with the taxes of the then current year, and in the same manner.

County treasurer to lay statement before board of supervisors.

(1077.) SEC. 111. If such taxes cannot be properly re-assessed upon the same lands, the board of supervisors shall cause the same or any part thereof to be re-assessed upon the taxable property of the proper township, as may appear equitable.

Re-assessment of rejected taxes.

(1078.) SEC. 112. It shall be the duty of the board of supervisors to furnish to the Auditor General a list of all taxes which shall have been rejected or charged back to their county by him, upon lands which shall have been detached from such county subsequent to the time when such taxes were assessed, and the Auditor General shall thereupon credit to such county the amount which he may have so charged back, and charge the same to the county in which such lands may be then situated: *Provided*, Such taxes shall not have been previously paid or re-assessed.

When board to furnish Auditor list of taxes charged to county.

Provided.

(1079.) SEC. 113. Whenever the Auditor General shall have rejected any State, county, or township tax, for the reason that the amount assessed for any such purpose exceeds the limitation established by law, the county treasurer of the county in which the lands so assessed shall be situated shall make out and present to the board of supervisors thereof, at their next session, a list of the lands, with the taxes assessed, and the interest accrued thereon.

Proceedings when tax exceeds limit fixed by law.

(1080.) SEC. 114. The board of supervisors shall cause so much of said taxes as shall remain unpaid, and as shall not exceed the limit fixed by law for the year in which they were originally assessed, to be re-assessed upon the same lands, if they can legally do so, and collected with and in the same manner as the taxes for the year in which the same shall be re-assessed, as aforesaid.

Ida.

Ibid. (1081.) SEC. 115. If any such taxes cannot be properly reassessed upon the same lands, the board of supervisors shall cause the same, or any part thereof, under the limitation aforesaid, to be assessed upon the taxable property of the proper township, as may appear equitable.

Liability of collector, etc. (1082.) SEC. 116. If at any time it shall be discovered that the treasurer of any township has received the tax assessed upon property which he has returned delinquent, the supervisor shall have power, and he is hereby required to collect the same, in the name of his township, from such treasurer or his sureties, together with interest and charges.

OF LANDS BID OFF TO THE STATE FOR TAXES; THEIR REDEMPTION
AND SALE.

Lands bid off to State to be offered at October sales. (1083.) SEC. 117. All lands heretofore bid off or that may hereafter be bid off to the State for taxes, which have not been redeemed or otherwise discharged, shall be offered for sale at the annual tax sales in October in each year.

Auditor's statement to county treasurers. (1084.) SEC. 118. The Auditor General shall furnish to each of the county treasurers, in the month of September, in each and every year, a full and accurate statement of all the lands in his county that may have been bid in for the State, remaining unredeemed or not otherwise discharged.

Contents of. (1085.) SEC. 119. Such statement shall exhibit the aggregate amount of all sums due to the State on each description of land, including interest thereon, at the rate of fifty per centum per annum, from the time the lands were bid in by the State to the first day of October in the year in which they shall be first offered as State tax lands, as contemplated in the preceding section: *Provided*, That on all State tax lands which have or should have been once previously offered at public sales, and which, remaining unsold, are again to be offered as above, there shall be charged upon the amount for which each description thereof has or should have been so offered, interest at the rate of ten per cent per annum, from the time when they were so or should have been so first offered, to the said first day of October.

Proviso. (1086.) SEC. 120. The Auditor General shall cause to be published for four weeks successively (which shall be construed to mean four publications, once a week) next previous to the first Monday of October in each year, a notice that the lands described in such statement will be sold at public auction by the treasurer of the county in which such lands are situated, at the time and place designated for the ordinary tax sales, under the direction of the Auditor General.

Notice of sale. (1087.) SEC. 121. At the time designated in the notice, and immediately previous to the sale of other lands advertised to be sold for taxes at the same time, such county treasurer shall commence the sale at the place designated, and continue the same from day to day, if necessary (Sundays excepted), until he has offered all the lands embraced in his list which have not been redeemed or other-

Time and manner of sale.

wise discharged; and any person to whom any parcel of land shall be struck off by the county treasurer, who shall neglect or refuse to pay the amount bid by him on any parcel of land offered as above, for twenty-four hours after the lists shall have been gone through, shall be subject to the penalty imposed by section eighty-six of this act.

(1088.) SEC. 122. In all cases when a description of land is offered as State tax land, and the same description or any part thereof shall be offered in the regular list of lands delinquent for taxes, as provided in section eighty-four of this act, it shall be the duty of the county treasurer to inform the person bidding for the description offered as State tax land of the fact, and such person shall be required to purchase the description so offered in the regular list at the same time the description offered as State tax land is bid off by him; and, in case of his neglect or refusal so to do, the treasurer shall decline the bid of the person so refusing, but shall continue to offer such description as if no bid had been made thereon.

Duty of county treasurer when a description shall be offered in list of delinquent lands.

(1089.) SEC. 123. The county treasurer shall, on payment of the purchase money at such sale, issue certificates of sale to the purchasers in such form and make such returns to the Auditor General as shall be prescribed by him, and shall also transmit the moneys received on such sale to the State Treasurer, in such manner as is provided in section eighty-nine of this act.

Certificates of sale; issue of by county treasurer, etc.

(1090.) SEC. 124. [Repealed by Act 224, 1875.]

¹(1091.) SEC. 125. The Auditor General or his deputy shall, on the presentation and surrender of the State tax land certificates of sale at his office, or as soon thereafter as may be (except in cases where the land has been previously sold at the Auditor General's office, or redeemed, when the purchase money only shall be refunded), execute a deed of the land to the purchaser, or his assigns, which shall convey all the right acquired by the State under the original sale or sales: *Provided*, That such deed shall be subject to all the conditions, and have the same force and effect, as is given by section ninety-one of this act to deeds executed in accordance with the provisions thereof.

Deed to purchaser by Auditor General or deputy.

(1092.) SEC. 126. All such lands remaining unredeemed, except such descriptions as the State may have a title to for another year or years, shall be subject to sale at any time at the office of the Auditor General, and upon the payment therefor, on his certificate, to the State Treasurer, of the amount for which such lands were bid off to the State, with interest at fifty per cent per annum, to be computed from the first day of October of the year in which such lands were bid off to the State, to the time of such application, the Auditor General shall issue to the purchaser a certificate of purchase.

Sale at office of Auditor General of such unredeemed lands.

Certificate of purchase therefor.

¹(1093.) SEC. 127. If such lands shall be redeemed, the purchaser shall be entitled to the amount paid therefor, together with twenty-five per cent interest as contemplated and provided in sec-

Redemption.

¹ As amended by Act 18, 1879.

tion ninety-three of this act; if otherwise discharged, then to the amount paid by him, with interest at seven per cent per annum, to be computed from the date of the purchase to the date of such discharge; but if such lands are not redeemed or otherwise discharged according to law, the Auditor General or his deputy shall, on the surrender of such certificate of purchase, execute to the purchaser a deed for the lands therein described.

Purchase of unsold State tax land at Auditor General's office.

(1094.) SEC. 128. Any person may purchase any unsold State tax land upon application therefor at the office of the Auditor General, and upon paying to the State Treasurer on the certificate of the Auditor General, the amount for which the same was or should have been first offered in the county as State tax land, with interest upon said amount at ten per cent per annum, to be computed from the first day of October, in the year in which such land was or should have been so first offered in the county, to the day of making such application and payment.

When deed to issue.

¹ (1095.) SEC. 129. Upon application and payment being made, as above mentioned, the Auditor General or his deputy shall execute to such purchaser a deed, conveying all the right, title, and interest of the State in and to said State tax lands, acquired by virtue of the original sale or sales to the State.

What provisions of law applicable to State tax land deeds.

(1096.) SEC. 130. All the provisions of law relative to deeds executed by the Auditor General, on the surrender of certificates of sale of State tax lands, issued by the several county treasurers, shall be applicable to deeds executed by him for lands purchased at his office, pursuant to the provisions of this act.

Office charges paid by purchaser, etc.

(1097.) SEC. 131. The purchaser of any lands bid in for the State at the annual tax sales, and sold pursuant to the provisions of this act, on application to the Auditor General for a deed, shall pay an office charge of thirty cents for the first and five cents for each subsequent description contained in such deed, which shall be paid into the State treasury, to the credit of the general fund.

Expenses of sale, etc., how paid.

(1098.) SEC. 132. All expenses of sale, postage, and other charges incident to the sales of lands bid in for the State, as aforesaid, shall be audited by the Auditor General, and paid out of the general fund on his warrant.

Auditor General to be defendant in action of ejectment.

(1099.) SEC. 133. In case it shall become necessary, in the prosecution of an action of ejectment by any person holding an adverse claim to any land bid in for the State, as provided in this chapter, the Auditor General may be defendant, and in all cases in the prosecution or defense of an action of ejectment or trespass, by any person holding or claiming land under any deed or deeds, or other conveyance of lands bid off or purchased for delinquent or unpaid taxes, the party so claiming, under and by virtue of such purchase for unpaid taxes as aforesaid, may show his title to said land and premises, whether the same was derived under one or more purchases or sales for taxes or otherwise, and may give in evidence any and all deeds of conveyance or other evidence of such purchase as aforesaid, which he may at any one or more different times

¹ As amended by Act 18, 1878.

have received on sales for taxes, and may claim title under any or all of them.

(1100.) SEC. 134. Neither the sale of any State tax lands, nor the sale of any of the bids of the State for which the time of redemption has not expired, shall in any way wise prejudice the right of the State to enforce the collection of any tax subsequent to the year or years for which the same have been sold as aforesaid, and for the taxes and charges remaining unpaid for such subsequent year or years, the Auditor General shall cause such lands to be offered in regular succession, at the next ensuing annual sales for taxes, in the proper county, giving the notice required by law, unless previously redeemed or otherwise discharged.

Right of the State to enforce collection of taxes, etc., not to be prejudiced.

(1101.) SEC. 135. All lands sold for the non-payment of taxes under the laws of this State, which were in force on the fifth day of October, eighteen hundred and sixty-eight, whether sold to individuals or bid off for the State, shall be subject to such laws as were then in force in all matters pertaining to interest and redemption, and to the refunding the purchase money in all cases wherein the sale of such lands has or shall be made void, whether by redemption or in such other manner as was by such laws provided.

All lands sold, etc., to be subject to laws pertaining to interest and redemption.

MISCELLANEOUS PROVISIONS.

(1102.) SEC. 136. Any person who has a lien upon any lands returned for non-payment of taxes, may pay the taxes, interest, and charges thereon; and the receipt of the county treasurer or State Treasurer therefor, duly countersigned, shall constitute an additional lien on such lands, to the amount therein specified; and the amount so specified shall be collectible, with interest thereon, in the same manner as the original lien.

Persons having lien may pay taxes, etc., thereby creating additional lien.

(1103.) SEC. 137. If any township clerk or supervisor shall willfully neglect or refuse to perform any of the duties required of him by the provisions of this act, he shall forfeit and pay a sum not exceeding five hundred dollars to any person injured by each case of neglect, but such sum shall not exceed the injury sustained.

Penalty for neglect by certain officers.

(1104.) SEC. 138. The board of supervisors of each county shall, at their annual session in each year, transmit to the prosecuting attorney the names and places of abode of all township clerks and supervisors within their county, who shall have incurred any forfeiture under the provisions of this act, and such prosecuting attorney shall immediately prosecute for such forfeiture.

Board of supervisors to notify prosecuting attorney of forfeitures.

(1105.) SEC. 139. All losses that may be sustained by the default of the treasurer of any township shall be chargeable on such township; and all losses that may be sustained by the default of any county treasurer, in the discharge of the duties imposed by this act, shall be chargeable on such county, and the board of supervisors of such county shall add such losses to the next year's taxes of such township or county.

Losses by default of town or county treasurers.

(1106.) SEC. 140. The Auditor General shall from time to time furnish suitable blanks, in addition to those required by the pre-

Auditor General to furnish blanks required.

ceding provisions of this act, for returns of unpaid taxes, receipts, and certificates of sale, which shall be sent to the several county treasurers.

Detroit; who to perform duties of supervisors and treasurers therein.

(1107.) SEC. 141. The assessors of the several wards in the city of Detroit shall have and exercise the powers and duties of supervisors, and the collectors of the several wards in said city shall have and exercise the powers and duties of township treasurers under the provisions of this act.

Authority of Auditor to print act, etc.

(1108.) SEC. 142. The Auditor General shall, from time to time, whenever he shall find it necessary, cause to be printed at the expense of the State, a sufficient number of copies of this act, with such forms of proceeding under the same as may be necessary and proper, to furnish one copy to each supervisor, township treasurer, township clerk, and county clerk, and three copies to each county treasurer, and shall transmit to each county treasurer, at the expense of the county, a sufficient number for such county; and every county treasurer receiving such copies shall immediately transmit to the township clerk of each township five copies, to be distributed by him to the officers entitled thereto.

Liability of officers for neglect or failure to perform duties.

(1109.) SEC. 143. Any officer who shall willfully neglect or refuse to perform any of the duties imposed upon him by this act shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by imprisonment in the county jail not exceeding one year, or by fine not exceeding five hundred dollars, in the discretion of the court.

Rights of parties in surplus arising from sale of taxes.

(1110.) SEC. 144. Whenever a surplus arising from the sale of any property distrained for taxes shall be claimed by any other than the person for whose tax such property was sold, and such claim shall be contested by such person, such claimant may prosecute an action against such person; or the person for whose tax such property was sold may prosecute such action against such claimant, as for money had and received; in which action the right of the respective parties to such surplus shall be tried and determined.

Proceedings to determine.

Ibid.

(1111.) SEC. 145. For the purpose of such action, the defendant shall be deemed to be in possession of the surplus in the hands of the township treasurer, and, upon the presentation to such treasurer of a certified copy of the final judgment rendered in such action, the said treasurer shall pay over the same to the party recovering such judgment; and no township treasurer shall be liable to any claimant of such surplus, the right to which is contested as provided in this act, until he shall have refused to pay over such surplus, upon the production of a certified copy of a judgment as aforesaid.

Ibid.

(1112.) SEC. 146. In any action brought pursuant to the two last preceding sections, no other cause of action shall be joined nor shall any set-off be allowed; and if an execution issue on a judgment so rendered, it shall direct the costs only of such action to be levied by virtue thereof.

Duty of prosecuting attorney.

(1113.) SEC. 147. It shall be the duty of the prosecuting attorney of each county to give his counsel and advice to the county

treasurer, the township treasurer, and the supervisors of the county, whenever they or any of them may deem it necessary, for the proper discharge of the duties imposed upon them in this act, free of charge.

(1114.) SEC. 148. Whenever any county treasurer shall pay to any township treasurer any moneys on account of taxes returned from such township, it shall be the duty of such county treasurer immediately to notify the clerk of the proper township of the amount so paid to such township treasurer.

County treasurers paying money to township treasurers, to notify township clerk.

¹ (1115.) SEC. 149. In all cases of sale of land for taxes, if the purchaser or his assigns shall die before a deed shall be executed on such sale, the deed may be executed by the Auditor General, or his deputy, to and in the name of the deceased person, if such deceased person being still alive would be entitled to a deed; which deed shall vest the title in the heirs or devisees of such deceased person, in the same manner liable to like claims of creditors and other persons as if the same had been executed to such deceased person immediately previous to his death, or the executor or administrator may assign the certificate of purchase, and the deed may issue to the assignee thereof, and in like cases which have heretofore occurred, the same rule shall apply, and all deeds heretofore issued in the name of any person deceased who if living at the time of the execution thereof would have been entitled thereto, shall have like effect as above provided.

Tax deeds to deceased persons.

(1116.) SEC. 150. The supervisors of every township in which there shall be assessed the interest of any purchaser of university, primary school, State building, normal school, asylum, swamp, salt-spring, or other lands, the title of which vests in the State, as personal property, shall, on or before the first day of November, in the year when the same was so assessed, transmit to the treasurer of his county a list of all such lands, containing a full description thereof, together with the names of the persons to whom the same was so assessed.

Description of university, primary school, etc., land to be returned to county treasurer.

(1117.) SEC. 151. The several county treasurers shall, at the same time and in the same manner they are now required to return to the office of the Auditor General lands delinquent for taxes in their respective counties, return to the State Land Office a statement of all university, primary school, State building, normal school, asylum, swamp, salt-spring, and other lands, the title of which vests in the State, upon which, from returns made to them by the township treasurer, it appears the taxes assessed have not been paid and cannot be collected.

County treasurer to make return to State land office.

(1118.) SEC. 152. The Commissioner of the State Land Office shall provide suitable books, and enter in the same the description of every parcel of land so returned to his office, and the taxes assessed on the same.

Commissioner to enter same, etc., in books.

² (1119.) SEC. 153. The purchaser or purchasers of any piece or parcel of land so returned, or the person or persons claiming to have any interest in the same, as the assignee or legal representa-

Forfeiture in case of neglect to pay taxes.

¹ As amended by Acts 115, 1871, and 18, 1879.

² As amended by Act 129, 1879.

tive in any other capacity of such purchaser, shall, on or before the first day of July next succeeding the time when such annual interest is payable, pay to the State Treasurer the amount of taxes assessed upon any description of the lands so returned, with interest thereon, from the first day of February following the assessment of the same, at the rate of ten per cent per annum, if paid by the first day of June following the assessment, or at the rate of twenty per cent per annum if paid after the said first day of June, and in addition thereto on each description, thirty cents, to defray the expenses of the collection of such taxes; and in default of such payment, and in case of the non-payment of such taxes, together with the interest and charges aforesaid, on or before the said first day of July, the certificate of purchase of said parcels of land shall become void and of no effect from the time of such default, and the commissioner may take immediate possession of and re-sell said lands.

Sale and redemption.

¹(1120.) SEC. 154. Every parcel of land forfeited under the provisions of the preceding section shall be subject to sale and redemption in the same time and manner as lands forfeited for non-payment of interest.

When Commissioner to furnish Auditor statement of taxes paid.

(1121.) SEC. 155. The said Commissioner shall, on or before the first day of May and November in each year, make out and furnish to the Auditor General a statement containing a description of the lands upon which the taxes have been paid, and the amount of taxes, interest, and charges paid on such lands; and shall also, at the same time, transmit to the several county treasurers of the several counties of the State, a copy of such statement, so far as the same relates to each county respectively, and the county treasurer shall credit the respective townships with the portion of such taxes and interest belonging to them respectively.

Auditor General to credit counties.

(1122.) SEC. 156. The Auditor General shall credit to the proper counties the taxes so paid, with the rate of interest allowed on other delinquent taxes, and place the balance of moneys arising from such interest and charges to the credit of the general fund.

Appointment of assessors for unorganized territory, by board of supervisors, etc.

(1123.) SEC. 157. The board of supervisors of any organized county, to which is attached any unorganized territory for judicial purposes, may appoint one or more assessors, to be duly qualified, who shall hold their office until others are appointed, whose duty it shall be to assess the property liable to taxation in such unorganized territory, in the same manner as is herein prescribed for the supervisors of organized townships; who shall take, complete, and deliver the same to the county clerk of such organized county on or before the first day of October, which roll shall be equalized, and so make the aggregate valuation of said county, the same as the other township rolls; and the relative amount of State and county tax, together with the expense of assessment and collection, shall be apportioned to the property of said rolls the same as that of the several townships. It shall be the duty of the county clerk to affix the taxes so apportioned to a true copy of said roll, to annex his warrant thereto, to deliver the same to the sheriff, who shall give bonds to the county treasurer that shall be

Duty of county clerk.

¹ As amended by Act 128, 1879.

approved by him to collect and pay over the same, in the time, manner, and under the same restrictions as are herein prescribed for the town treasurers to collect and pay to the county treasurer their several State and county taxes. Said assessors shall be empowered, at any time before the first day of October, to make and complete an assessment in any organized townships that may fail or neglect to make or complete an assessment roll within the time required by this act, and shall deliver the same to the county clerk, who shall affix the taxes to a true copy thereof, and deliver the same to the sheriff of said county, who shall give bonds to the county treasurer, collect, and pay over the same in like manner as is required for the unorganized portion of said counties.

Power of assessor to complete assessment, etc.

(1124.) SEC. 158. If any person, dispossessed of lands purchased in pursuance of the provisions of this act, shall have made valuable improvements thereon, he shall be entitled to receive what such improvements are reasonably worth, to be assessed on the trial of said cause, and the same so assessed shall be a lien on said land till paid.

Improvements by purchasers to be a lien on lands.

(1125.) SEC. 159. Whenever any township, village, or ward of a city shall ask and obtain an extension of time for the collection of taxes, it shall be the duty of the county treasurer of the county in which such township, village, or ward of a city is located, to compute the interest due on the tax so extended, and charge the same to the township, village, or ward of the city that obtained such extension, but in no case shall the interest thus computed become a general charge to the county.

Duty of county treasurer when time is extended for collection of taxes in township, etc.

(1126.) SEC. 160. When any new county shall be organized, the officers elected and qualified after the State and county tax has been assessed in such new county by the county to which it has been attached, and before the township treasurers have made their returns, the said township treasurers of such newly organized counties shall make their returns to and pay over the moneys and settle with the county treasurer of the county from whom they received their warrants, and to whom they have given bond, and the collection of said taxes shall proceed and be made as though no new county had been organized or set off.

Return by town treasurers in newly organized counties; to whom made.

(1127.) SEC. 161. Such newly organized county, and the county to which the same, or any part thereof, was formerly attached, shall settle and adjust their equitable rights in a division and apportionment of taxes between them, according to the provisions of section twenty-one of chapter nine of the Compiled Laws, and the sections following, to section twenty-five, inclusive.

Law for adjusting rights, etc., of newly organized counties.

¹(1128.) SEC. 162. The Auditor General of this State (or his deputy) is hereby authorized to execute a second deed upon tax-sale certificates in all cases in which he shall be satisfied, by sufficient proof, that the original deed and record thereof in the proper county have been, or that such deed, if not recorded, has been lost or destroyed, which said deed shall declare upon its face that it is a second deed, and shall be executed to the same party only as the first, and shall recite the loss or destruction of the

When Auditor to issue second tax deed.

¹As amended by Act 13, 1879.

former deed, and its date, if possible, and shall only have the same force and effect; and it shall inure for the benefit of the grantee in the first, his heirs or assigns, as the case may be, in the same way as the first would have done if it had not been lost or destroyed, and shall have no other effect whatsoever.

When tax not to be held illegal, etc.

(1129.) SEC. 163. No general or special tax authorized to be raised by the laws of this State, and which shall be assessed upon any property in any township or ward within the State, shall be held illegal or invalid for want of any matter of form in any matter or thing not affecting the merits of the case, and which shall not prejudice the rights of the party assessed; nor shall any sale of property for non-payment of the taxes thereon be invalid unless it shall be made to appear that the legal taxes, costs, and charges were tendered to the proper officers within the time limited by law for the payment of all such taxes; or, in case of the sale of real estate, unless it shall be made to appear that all legal taxes assessed upon such real estate, together with all legal costs and charges thereon, were tendered to the officer authorized to receive such redemption money, within the time limited by law for the redemption thereof, and all taxes assessed upon any property in this State shall be presumed to be legally assessed until the contrary is affirmatively shown; and no sale of real estate for non-payment of the taxes thereon shall be rendered invalid by showing that any paper, certificate, return, or affidavit required to be made and filed in any office is not found in the office where the same ought to be filed or found; but, until the contrary is proven, the presumption shall be, in all cases, that such certificate, paper, return, or affidavit, was made and filed in the proper office.

Proof required to defeat title to deed of land sold for taxes.

(1130.) SEC. 164. In all suits and controversies involving the title to land, claimed and held by virtue of a deed executed by the Auditor General of this State, for non-payment of the taxes thereon, the person claiming adverse title to such deed shall be required to prove, in order to defeat the title conveyed by such deed, either that the land described therein was not subject to taxation at the date of the assessment of the tax for which it was sold; or that the taxes, for the non-payment of which such land was sold, were paid to the proper officer within the time limited by law therefor; or that the same had not been assessed for the taxes for the non-payment of which it was sold; or that the same had been redeemed pursuant to law; or that a certificate, in proper form, had been given by the proper officer, within the time limited by law for paying taxes, or redeeming from sales made for the non-payment thereof, stating that no taxes were due, or that the lands were not subject to redemption; but no person shall be permitted to question the title acquired by such Auditor General's deed, without proving that he or the person through whom he claims title, had title to the land at the time of the sale thereof for non-payment of taxes, or subsequently, which title was acquired from the United States or from this State.

(1131.) SEC. 165. If any conveyance, made by the Auditor General pursuant to a sale made for non-payment of taxes, shall prove

to be invalid and ineffectual to convey title, for any other cause than such as are enumerated in the preceding section, the lien which the State had on such land for its rightful proportion of taxes for State, county, township, and all lawful purposes, shall remain in full force, and shall be transferred by such deed to the grantee and vested in him, his heirs and assigns, who shall be entitled to recover from the owner of such lands the amount of such legal taxes, together with all the lawful charges, with interest at twenty-five per cent from the date of such sale, and also the amount of all subsequent taxes paid by the person holding such title from the Auditor General, with like interest; and such claim shall be a lien upon such lands, and the same shall be bound for the payment thereof; and in case judgment shall be rendered against the person holding title from the Auditor General, as aforesaid, for the recovery of such land, in any action of ejectment, or other action, either at law or in equity, the court shall ascertain the amount due to the party holding such tax deed, for principal and interest, and for all improvements made by him on such lands, and shall decree the payment thereof within such reasonable time as may be determined by such court; and in default of such payment, shall decree that such lands be sold therefor, or sufficient thereof to pay the amount of such improvements, principal and interest, due to the party having such Auditor General's deed: *Provided*, That there shall be no right of redemption of such property after the date of sale.

When conveyance by Auditor General shall prove invalid, etc., the lien of State for taxes shall remain in full force, etc.

Proviso.

(1132.) SEC. 166. Any person holding any deed of lands executed by the Auditor General for the non-payment of taxes, may commence a suit in the circuit court in chancery, of the county where such lands lie, to quiet his title thereto, without taking possession of such lands; and all parties who have or claim to have, or appear of record in the register's office of the county where such land is situated to have, any interest in such land, may be made defendants in such suit; and no outstanding unrecorded deed, mortgage, or claim shall be of any effect as against the title or right of the complainant, as fixed and declared by the decree made in such case; and if, upon hearing of such cause, it shall appear that the complainant's title was invalid for any cause not enumerated in section one hundred and sixty-four of this act, such suit shall not be dismissed by the court, but the court shall ascertain the amount due to the complainant for principle, and interest to be computed at twenty-five per cent per annum, and shall decree the payment thereof within a reasonable time, by the owner of such land, and in default thereof shall direct that such land be sold therefor, and that the equity and right of redemption of all defendants in such suit, and all persons claiming under them, shall be forever foreclosed: *Provided*, That the proceedings in such cases shall be conducted in the same manner, as near as may be, and in conformity with practice in case of foreclosure of mortgages.

Proceedings in suit to quiet title.

Who may be made defendants, etc.

Proviso.

¹(1133.) SEC. 167. An act entitled "An act to provide for ~~ASSES-~~ Acts repealed.

¹ As amended by Act 45, 1873.

ing property at its true value, and for levying and collecting taxes thereon," approved February fourteenth, eighteen hundred and fifty-three, and all acts and parts of acts amending said act; also, an act entitled "An act to provide for the collection and return of taxes by township treasurers, in newly organized counties, in certain cases," approved January second, eighteen hundred and sixty-one; also, an act entitled "An act to authorize the Auditor General to execute second tax deeds, in certain cases," approved March twelfth, eighteen hundred and sixty-one; also, an act entitled "An act to authorize the Auditor General to refund money paid for taxes, and on tax sales, in certain cases," approved March eighteenth, eighteen hundred and sixty-three; also an act amending said last-named act, approved March twenty-first, eighteen hundred and sixty-five; also, an act entitled "An act relative to extending the time for the collection of taxes," approved March eighteenth, eighteen hundred and sixty-five; also, an act entitled "An act to provide for the recovery of taxes paid on real estate, by persons claiming title thereto, in certain cases," approved March twentieth, eighteen hundred and sixty-five; also, an act to provide for the taxation of improvements upon homestead lands, as personal property, approved March twenty-first, eighteen hundred and sixty-seven, and all acts amending any and all of said acts, are hereby repealed; but the acts hereby repealed shall remain in full force as to all sales for taxes, made prior to sixth day of April, eighteen hundred and sixty-nine; and all rights, privileges and obligations accruing under or imposed by said acts, and by virtue of such sales, are hereby saved and continued, subject to the provisions thereof, to be secured and enforced in the same manner and to the same extent as if said acts had not by this section been repealed; and all taxes unpaid on the sixth day of April, eighteen hundred and sixty-nine, shall be collected and proceeded with under the the provisions of this act, and be subject to all of the conditions herein imposed.

Acquired rights,
etc., not affected.

SEC. 168. This act shall take immediate effect.

Approved April 6, 1869.

Auditor General
to send lists to
county treasurer.
Of lands
redeemed;

Of lands sold.

County treasurer
to make note on
sales book.

¹SEC. 169. The Auditor General shall, once in each month, transmit to the treasurer of each county lists of all lands which may be redeemed, or in which the interest of the State, on bids made by it, may have been assigned, or for which a deed may have been made during the preceding month. Such lists shall state by whom the redemption was made, or to whom the State bid was assigned, or to whom a deed was made, the date of such redemption, assignment, or deed, and when the State bid is assigned or deed made, the residence of the assignee or grantee. And upon receiving such list the county treasurer shall enter in the sales book of the year for which the sale was made, opposite the description of the lands affected thereby, a brief note or statement of such redemption, assignment, or deed, as the case may be, the date thereof, and any other of the said matters set forth in said list affecting such lands.

¹Section added by Act 176, 1873.

LAWS

Providing for the Taxation of Railroad Lands, Homestead Lands, Lands owned by Mining Corporations, Copper for County and Township Purposes, Property used for Fishing Purposes, and Property of Masonic and Odd Fellows' Lodges, and other Benevolent Societies; also for the report to Supervisors of Shares of capital stock of Corporations subject to Taxation for Township Purposes.



[Act No. 196, page 532, Laws of 1873.]

AN ACT to revise the laws providing for the incorporation of railroad companies, and to regulate the running and management, and to fix the duties and liabilities of all railroad and other corporations owning or operating any railroad in this State.

* * * * *

ARTICLE III.

SECTION 3. Every company formed under the provisions of this act shall, on or before the first day of July in each year, pay to the State Treasurer, on the statement of the Auditor General, an annual tax upon the gross receipts of said company, computed in the following manner, viz.: Upon all gross receipts not exceeding four thousand dollars in amount per mile of road actually and regularly operated for the conveyance of passengers and freight, two per cent of such gross earnings; upon such gross receipts in excess of four thousand dollars per mile so operated, three per cent thereof; which amount or tax shall be in lieu of all other taxes upon the property of such companies, *except such real estate as is owned and can be conveyed by such corporation under the laws of this State and not actually occupied in the exercise of its franchises, and not necessary or in use in the proper operation of its road; but such real estate so excepted shall be liable to taxation in the same manner, for the same purposes, and to the same extent, and subject to the same conditions and limitations as to assessment for taxation, to taxation, and to the collection and return of taxes thereon, as is other real estate in the several townships within which the same may be situated.*

* * * * *

SEC.— This act shall take immediate effect.
Approved May 1, 1873.

Pay specific tax.

In lieu of other taxes.
Exception.

Real estate excepted, liable to taxation same as other real estate.

[Act No. 180, page 461, Laws of 1873.]

AN ACT relative to licensed homestead lands, and to provide for taxing the same in certain cases.

Commissioner of
Land Office to
furnish list of
homestead lands.

When.

To show.

County treasurer
to send lists to
supervisors.

Supervisor to
examine lands.

And assess if
occupied.

Provided.

SECTION 1. *The People of the State of Michigan enact*, That it shall be the duty of the Commissioner of the State Land Office to furnish to the several county treasurers within this State, during the month of March of each year, a list of all licensed homestead lands therein that have been licensed for a term of five years or over (and upon which patents have not been issued), together with the date of each license and the name of the licensee.

SEC. 2. Such county treasurers shall, on or before the tenth day of April of each year, cause to be delivered to the supervisor of each township within the county an accurate description of all such lands within such township.

SEC. 3. The supervisor of every such township shall, at the time of making the annual assessment, examine each and every parcel or description of such land, and if he shall find that the same is occupied, he shall assess the same to the occupant or owner thereof at its true cash value, the same as other lands in the same township are assessed: *Provided*, That the same shall be assessed as personal property, and the tax thereon shall be collected in the same manner as other taxes on personal property are by law required to be collected.¹

SEC. 4. This act shall take immediate effect.

Approved April 29, 1873.

[Act No. 189, page 227, Laws of 1873.]

AN ACT requiring settlers under the homestead laws of the United States to pay taxes after a residence of five years.

United States
homestead land.

When settled
five years to be
assessed.

Though patents
have not issued.
Shall be assessed
as personal
property.

SECTION 1. *The People of the State of Michigan enact*, That it shall be the duty of the supervisor of every township in Michigan, where lands have been donated to actual settlers under the homestead laws of the United States, after any such lands shall have been entered and settled upon under said laws for a period of five years and over, and not forfeited, to assess and enter upon the assessment roll of his township a description or descriptions of such lands, and assess the same to the settlers thereon in the same manner as other lands are assessed in his township, and notwithstanding the patents for such lands may not have been issued by the United States: *Provided*, That the same shall be assessed as personal property and not as real estate, and the tax thereon shall be collected in the same manner as other taxes on personal property are by law required to be collected and accounted for.

SEC. 2. This act shall take immediate effect.

Approved April 25th, 1873.

¹ Lands assessed under this act should be reported by the supervisor as required by section one hundred and fifty of the Tax Law; they being "other lands" than those designated, "the title of which vests in the State."

And the county treasurer should make returns of these lands, so far as the taxes thereon remain unpaid, to the Commissioner of the State Land Office as required by section one hundred and fifty-one of the Tax Law, they being "other lands" than those designated, "the title of which vests in the State."

[Sections 1189-1190 and 1191 C. L., 1871.]

AN ACT authorizing the supervisors of the several towns in the Upper Peninsula to assess and collect [the State] taxes upon all mining companies' real estate, or other property.

(1189.) SECTION 1. *The People of the State of Michigan enact,* That the several supervisors of the different townships in the counties in the Upper Peninsula, be and are hereby authorized and required to assess and collect, in the same manner that taxes are assessed on other property, the State taxes upon all real and personal property belonging to any mining corporation or association formed under the general mining laws of this State, that are not actually carrying on and engaged in the business of mining. Supervisor to tax property of mining companies.

(1190.) SEC. 2. All mining corporations organized under the general mining laws of this State, and those organized under special acts of the Legislature, prior to the adoption of the Constitution of this State, or those that may be hereafter organized under the general mining laws, that are actually engaged in and carrying on the business of mining, shall pay a State tax upon all their real estate that exceeds in quantity six hundred and forty acres of land; and to entitle any corporation to the exemption from taxation of a quantity of lands not exceeding six hundred and forty acres, they shall file in the county clerk's office of their respective counties a full and complete description of said land and accompanying said description with a map and survey of the same. The supervisors of the several townships in which any of said lands belonging to any mining corporation may be located, are hereby authorized and required to assess the State tax on all the lands belonging to such mining corporations, not herein exempt: *Provided,* That nothing in this act shall release any mining corporation or association from paying any specific tax now provided by law. Mining companies to pay State tax on excess of real estate over 640 acres.
Companies to file description of lands with county clerk.

(1191.) SEC. 3. All acts or parts of acts contravening the provisions of this act are hereby repealed. Duty of supervisor.
Proviso.

SEC. 4. This act shall take immediate effect.

Approved March 15, 1861.

[Act No. 78, page 89, Laws of 1873.]

AN ACT to provide for the taxation of copper for county and township purposes.

SECTION 1. *The People of the State of Michigan enact,* That every corporation, partnership, or person engaged in the business of mining or smelting copper, or any person, partnership, or corporation owning or holding such copper in the Upper Peninsula, shall, on or before the first Monday of May in each year, deliver to the supervisor or other assessing officer of each township, village, or city in which such corporation, partnership, or person had, on the twenty-fifth day of April preceding, any copper, whether smelted or unsmelted, in their possession or under their control a true and correct statement, specifying, Corporations, etc., mining copper, to deliver to supervisor a statement; when.

- What to contain.** *First.* The amount in weight of such copper, and whether smelted or unsmelted ;
Second. Its cash value ;
Third. The township in and the premises upon which it is stored ;
Fourth. The name and residence of the owner of the same, or if belonging to a corporation, the name and place of business of such corporation.
- How verified.** SEC. 2. Such statement shall be verified by the oath of the superintendent or agent of such corporation, or partnership, or of some member thereof, or of said person, or of some person having full knowledge of the facts therein stated ; and any person who shall
- Penalty for false.** make an affidavit as above required, shall be liable to the penalties of perjury for any false statement made in such affidavit with intent to defraud, upon conviction thereof before a court having jurisdiction of the offense: *Provided,* That such copper shall not be assessed in other township than as herein provided.
- Proviso.** SEC. 3. Every such corporation willfully neglecting or refusing to furnish such statement, shall, if within this State, forfeit its franchises, and if without the State, shall no longer be permitted to do business herein ; and the members of such partnership, or
- Penalty for neglect to make.** such person so neglecting or refusing to make such statement, shall, if within this State, forfeit the sum of three hundred dollars in the nature of a penalty, which shall be sued for and recovered by the prosecuting attorney of the proper county for the use and benefit of the people of the State of Michigan, as provided by chapter two hundred and sixteen of the Compiled Laws of eighteen
- Forfeiture for neglect to make.** hundred and seventy-one, and if such partnership or person shall be without the State, then the superintendent or agent of such partnership or person, and managing said business, shall in like manner forfeit said sum of three hundred dollars, to be collected in like manner as above provided.
- Supervisor, on receiving such statement.** SEC. 4. Every supervisor, or other assessing officer, upon receiving any such statement from which it shall appear that there was in his township, village, or city on said twenty-fifth day of April, any copper, whether smelted or unsmelted, belonging to any resident of or corporation having its office in this State, shall at once transmit to the supervisor of the township in which such owner resides, or such corporation has its office, a certified copy of that portion of the said statement relating to such copper.
- Copper to be assessed as other property.** SEC. 5. Every supervisor, or other assessing officer, shall estimate and assess upon his assessment roll all copper belonging to residents of his township, or non-residents of the State, in the same manner and for the same purposes that other personal property is assessed.
- SEC. 6. This act shall take immediate effect.
- Approved April 10, 1873.

[Section 1138, C. L. 1871.]

AN ACT to provide for assessing property in certain cases at any time between the first days of May and October in each year, and for the more speedy collection of taxes in certain cases.

(1138.) *SECTION 1. The People of the State of Michigan enact,* Duty of supervisor or assessor. That whenever any non-resident or transient person or persons shall, between the first days of May and October in any year, bring into any township, city, or village in this State any merchandise or other property to be used in carrying on the business or occupation of fishing, such merchandise or other property not having been previously assessed for taxation in this State for the then current year, it shall be the duty of the supervisor or assessor of such township, city, or village to assess such property for taxation in the same manner assessments are usually made, and as if the same had been in the township, city, or village, subject to taxation at the usual time of making the assessments. Equalization of taxation. And it shall be the duty of such supervisor or assessor to make out a separate assessment roll for the taxes to be levied thereon, and present the same to the board of supervisors of the county in which such township, city, or village is situate, at their annual meeting in October in each year, whose duty it shall be to immediately equalize the taxation, including said separate assessment roll or rolls; and as soon as the rate of taxation is ascertained, it shall be the duty of each supervisor in whose township the said separate assessment roll may be required, forthwith to make out a separate tax roll from said separate assessment roll, and deliver it to the township, city, or village treasurer, who shall proceed at once to collect the said taxes so assessed under the provisions of Collection of this act, according to the law for the collection of taxes, and pay over the amount so collected in the same manner as other taxes are collected and paid over.

SEC. 2. This act shall take immediate effect.

Approved March 21, 1865.

[Section 1140, C. L. 1871.]

AN ACT to provide for taxing the property of Masonic and Odd Fellows' lodges, and other benevolent societies.

(1140.) *SECTION 1. The People of the State of Michigan enact,* Taxation authorized. That any Masonic or Odd Fellows' lodge, or other benevolent society or order, incorporated under the laws of this State, owning, occupying, or controlling any temple, hall, or other property, such property shall be subject to taxation, in like manner as the same kind of property owned by individuals or companies is taxed: *Provided,* That any hall or rooms occupied by such corporation Provide. for their own use exclusively shall be exempt from taxation.

SEC. 2. This act shall take immediate effect.

Approved March 24, 1869.

[Sections 3448, 3449 and 3450 C. L. 1871.]

REPORT to supervisor of name of shareholder in any corporation whose capital stock is subject to taxation for township or county purposes.

* * * * *

Clerk of corporation to make return to supervisor.

(3448.) SECTION 21. It shall be the duty of the clerk of every corporation within this State, whose capital stock is or shall be subject to taxation for county or township purposes, and if there be no such clerk, then of the directors of such corporation annually, between the fifteenth day of March and the first day of April, to make returns in person or by mail, to the supervisor of each township and the assessors of each ward or district in any city in this State, in which any shareholder in such corporation shall reside; which return shall state the name of each owner residing in such township or city, the number of shares belonging to each on the fifteenth day of March of that year, and the par value of such shares.

Giving name of stock holder, number of shares and value.

Forfeiture for neglect.

(3449.) SEC. 22. If any clerk or director mentioned in the preceding section shall refuse or neglect to make such return, or shall willfully make a false return, he shall forfeit the sum of fifty dollars.

Forfeiture for transferring shares fraudulently.

(3450.) SEC. 23. If any shareholder shall fraudulently transfer any share in either of the corporations mentioned in the twenty-first section of this chapter, for the purpose of avoiding taxation, he shall forfeit a sum equal to one-half the par value of the shares so transferred.

MISCELLANEOUS ACTS.

[Act No. 6, page 6, Laws of 1874.]

AN ACT relative to taxation.

Taxable land omitted the preceding year to be placed upon assessment roll of the current year.

SECTION 1. *The People of the State of Michigan enact*, That whenever it shall come to the knowledge of the supervisor or proper assessing officer of any town, city, or ward, that any land liable to taxation in said town, city or ward, at the time of taking the assessment of the preceding year, was omitted from the assessment roll of said year, it shall be the duty of the supervisor to enter said land upon the assessment roll of the current year at a proper valuation of such property for assessment for the year in which said land was omitted from the assessment roll.

Rate per cent of taxes to be levied.

SEC. 2. The board of supervisors of the county in which said town, city, or ward is situated shall, at the next annual meeting after such assessment, proceed to levy taxes upon the same at a rate per cent not exceeding the rate per cent of taxes imposed upon the land in said town, city, or ward for the year in which such land was omitted from the assessment roll.

SEC. 3. The whole amount of the taxes levied upon land omitted in the tax levy of the preceding year shall be deducted from the aggregate amount of taxation to be levied upon said town, city, or ward for the current year before such tax for the current year is levied, and shall be collected or otherwise disposed of by the same authority and in the same manner as are ordinary taxes for the current year.

Taxes levied upon land omitted, to be deducted from aggregate amount for current year.

SEC. 4. The assessment provided for in the first section of this act shall be made within the time, and in the same manner, and subject to the same provisions of law as to assessment and review and otherwise as is the assessment for the current year; and the lands placed upon the assessment roll under the provisions of such section, shall be placed upon a part of said assessment roll, separate and distinct from the lands as assessed for the current year, and immediately preceded by a statement which shall distinctly set forth the year in which such land was omitted from the assessment roll, and for which it is then placed thereon.

Time and manner of making assessment.

SEC. 5. This act shall authorize placing upon the assessment roll for the year eighteen hundred and seventy-four lands legally subject to taxation when omitted from the assessment roll for the years eighteen hundred and seventy-two and eighteen hundred and seventy-three, and hereafter shall be limited to the assessment of lands omitted from the assessment roll of either or both of the two years next preceding that in which they are placed upon the roll, and at the time of such omission legally liable to assessment and taxation.

Limitation of act.

SEC. 6. Lands heretofore or hereafter placed upon the assessment roll for any year, but not within the time required by law, the taxes upon which remain unpaid until the expiration of the time herein provided for the assessment of such land, shall, for purposes of this act, be construed as omitted therefrom, and may be placed upon the assessment roll of the current year in the same manner as indicated above, except that in case the value of lands so placed upon the former assessment roll shall have entered into the valuation of the property of the town, city, or ward as was equalized by the board of supervisors, and upon which the tax was thereto apportioned, then the amount of taxes against such land shall not be deducted from the aggregate amount of taxation to be levied upon the town, city, or ward within which they are situated, as provided in section three of this act.

Lands not placed upon roll within the time required, construed as omitted.

Exception.

SEC. 7. Whenever the Auditor General shall have rejected any tax in the first instance, or have charged the same to the county to which it shall have been credited on account of any inaccurate or imperfect description of land upon which such tax was laid, or for any other reason, the board of supervisors of the county shall, if such tax was rejected or charged back on account of inaccuracy or imperfection of description of the land on which it was laid, add to the then current assessment roll of the proper town, city or ward a correct description of such land, and cause to be assessed thereon the tax, interest, and charges in arrears, and the same to be col-

Taxes rejected or charged back by Auditor General; when and how collected.

lected with the taxes of the then current year, and in the same manner.

Taxes, etc., on lands charged back as not subject to taxation, or upon which taxes have been paid, etc.

SEC. 8. The taxes, together with all interest and charges in arrears, upon any land rejected or charged back by the Auditor General for the reason that such land was not subject to taxation at the time prescribed by law for the assessment for such taxes, or that the taxes thereon had been once paid, or that there had been a double assessment thereof, shall by the board of supervisors be levied upon the property at large of the proper township, or otherwise disposed of as may appear equitable, except that they shall not be re-assessed upon the same land.

Taxes, etc., in cases not specified in two preceding sections.

SEC. 9. The taxes, interest, and charges in arrears upon any land rejected or charged back for any reason except as specified in the two preceding sections, may be re-assessed upon the same lands, levied upon the taxable property of the proper township, or otherwise disposed of by the board of supervisors as may be equitable.

Assessments, etc., except as herein specified, subject to act of 1866.

SEC. 10. The assessments made and taxes levied, under the provisions of this act, shall, in all matters except as hereinbefore specified, be subject to the provisions of an act entitled "An act to provide for a uniform assessment of property, and for the collection and return thereof," approved April 6th, 1869, and to the amendments thereto.

SEC. 11. This act shall take immediate effect.

Approved March 24, 1874.

[Act No. 37, page 38 Laws of 1873.]

AN ACT relative to the payment of taxes.

Persons making application in writing to pay taxes.

Application accompanied with funds.

Interest to be stopped.

Provided.

SECTION 1. *The People of the State of Michigan enact*, That any person making application in writing at the office of the Auditor General to pay the taxes upon any parcel of land returned or returnable for the non-payment of taxes thereon, which he shall so describe as that from his description thereof it can be determined whether such parcel of land has been returned to the Auditor General, and accompanying such application with such funds as are receivable at the State Treasury sufficient in amount to pay the taxes, interest, and other legal charges to the day of such application, shall receive the same benefit from such application, as to the stopping of interest and charges upon such taxes, as though the tax receipts were made on the day of such application. And when a tax receipt is made for the lands covered by such application, the date of the receipt of the funds as above shall be stated thereon, and the interest and charges shall be computed to such date only: *Provided*, That such application shall be received by the Auditor General on or after the first day of April next succeeding the year in which the tax was levied.

SEC. 2. This act shall take immediate effect.

Approved March 22, 1873.

[Act No. 6, page 5, Laws of 1873.]

AN ACT regarding the payment of irregular or illegal taxes.

SECTION 1. *The People of the State of Michigan enact*, That in all cases where any person, company, association, or corporation shall voluntarily and without protest pay to the officer demanding the same, and having a tax warrant or other process for the collection thereof, any sum or sums of money purporting by such warrant or process to be payable by such person, company, association or corporation for taxes or assessments, assessed, levied, or imposed by virtue of any law of this State, neither the officer so collecting the same, nor the officer who issued such warrant or process, nor the officer who made the assessment or levy, shall in consequence of such payment be liable in any form of action for or on account of any defect or invalidity in the law under which the proceedings are had, or of any defect or irregularities in the said proceedings, or in such warrant or process.

If payment of tax not protested.

Officer collecting under warrant, nor officer issuing warrant, nor officer who made assessment to be liable in any form of action.

SEC. 2. That whenever moneys shall have been thus voluntarily paid as taxes or assessments to any officer assuming to act under any law of this State, and he shall fail to pay the same over according to the requirements of such law, or of his warrant or other process, any defect, irregularity, or illegality in the proceedings, or any want of authority to assess or levy such taxes or assessment, shall not be set up as a defense to any suit or proceeding brought or instituted to compel such payment by him, or to hold him or his sureties responsible for his neglect to make the same, but he shall make payment the same as if no such defect, irregularity, illegality, or want of authority had occurred or existed.

Collector to pay over moneys so received.

Defect in warrant or assessment no defense for failure to pay over.

Sureties responsible for neglect to pay over.

Approved February 13, 1873.

[Act No. 118, page 163, Laws of 1873.]

AN ACT relative to granting injunctions in certain cases.

SECTION 1. *The People of the State of Michigan enact*, That whenever an injunction is asked by any person, company, association, or corporation, to restrain the collection of any taxes or assessments, assessed, levied, or imposed by any law or by authority of any law of this State, the officer to whom such application is made shall require, as a condition to the allowance of injunction, that the amount of the taxes, the collection of which is asked to be enjoined, together with the interest and charges to accrue thereon, be deposited with the register in chancery for the county in which the suit is commenced, which money shall, by the order of the court, be applied in payment of the taxes in question and the interest and charges thereon, within ten days after final decree, if the injunction be not made perpetual: *Provided*, This bill shall not apply to taxes assessed for drainage purposes.

When injunction is asked to restrain collection of taxes.

Amount of taxes to be deposited with register.

Provided.

Approved April 18, 1873.

[Section 1142, C. L. 1871.]

AN ACT relative to the construction of acts legalizing taxes, assessments, and tax and assessment rolls.

Irregularities
not legalized
unless distinctly
stated.

(1142.) SECTION 1. *The People of the State of Michigan enact,* That no act of the Legislature legalizing any tax or assessment, or any tax or assessment roll, and which shall hereafter become a law, shall be construed as extending to the legalization of any irregularity or defect which is not distinctly stated and set forth in such act.

SEC. 2. This act shall take immediate effect.

Approved March 18, 1871.

[Section 450, C. L. 1871.]

AN ACT to regulate the manner of attaching unorganized territory to organized counties, for judicial and municipal purposes.

Unorganized
county attached
to organized
county deemed
attached to
county town.

¹ (450.) SEC. 1. In all cases where any unorganized county has been, or may be hereafter attached to any organized county of this State for judicial or municipal purposes, the same shall be deemed to be, and hereby is, attached to the county town of such organized county, or to the township in which the county seat may be located, unless the board of supervisors of such county shall otherwise direct: *Provided*, That whenever it shall appear to the board of supervisors of such organized county, by petition, that such attached territory shall contain at least eighteen resident freeholders and legal voters, said board may in their discretion set off and organize the attached territory into a separate township, and such township so formed and set off shall continue to be attached to such organized county, for the same purposes as before the same was thus organized: *Provided further*, That all the requirements as to notice, petitions and applications for the organization of such township shall be the same as are now required by chapter ten of the compiled laws of eighteen hundred and seventy-one: *And provided further*, That all the taxes levied in such unorganized county, so attached, for other than State and county purposes, after such organization into a separate township, shall be expended within the limits of such unorganized territory.

When township
to be organized
therefrom.

Proviso.

Tax, where
expended.

Approved March 15, 1861.

[Section 1141, C. L. 1871.]

AN ACT to provide for the payment of taxes levied and assessed upon lands purchased and held for non-payment of taxes.

Providing for
payment of taxes
before recovery
of lands held for
non-payment of
taxes.

(1141.) SECTION 1. *The People of the State of Michigan enact,* That no person shall be entitled to the recovery of the possession of land purchased and held by such person from the State, or held as grantee of a previous grantee or grantees of the State, for the

¹ As amended by Act 49, 1877.

non-payment of taxes, nor shall any such person, or his legal representatives be lawfully entitled to the possession of any such lands, unless such person shall have, at any time before final judgment in his favor, or at the time of entering into such possession, either paid all the taxes levied and assessed upon such lands, subsequent to the date of any tax deed under which he claims, or tendered the amount of taxes thus paid to the person who paid the same, if such person be the person against whom recovery is sought, or shall have acquired all the tax titles given for the taxes levied and assessed subsequent to such first acquired tax title, and previous to the entering into such possession.

Approved April 5, 1869.

[Act No. 181, page 461, Laws of 1873.]

AN ACT limiting the right of the Auditor General to cancel the taxes on non-resident lands returned as delinquent for the non-payment of taxes in certain cases.

SECTION 1. *The People of the State of Michigan enact*, That the Auditor General shall not cancel the taxes assessed and levied on any lands heretofore granted in aid of the construction of certain railroads in this State, and commonly called railroad lands, and that have been patented to or earned by certain railroad companies, commonly called land-grant railroad companies, unless upon the order or decree of the supreme court of this State.

Taxes on railroad lands not to be cancelled.

Except on decree of court.

Approved April 29, 1873.

AN ACT to prevent the spreading of Canada Thistles in the State of Michigan, being sections 2129 to 2135, compiled laws of 1871.

(2129.) SECTION 1. *The People of the State of Michigan enact*, That it shall be the duty of every owner, possessor, or occupier of land, to cut, or cause to be cut down, all the Canada thistles growing thereon, or on the highway passing by or through the same, so often in each and every year as shall be sufficient to prevent them going to seed; and if any owner, possessor, or occupier of land shall knowingly suffer any such Canada thistles to grow thereon, and the seed to ripen so as to cause or endanger the spread thereof, he shall, on conviction, be liable to a fine of ten dollars for every such offense.

Owner or occupant to cut down thistles.

Penalty for suffering them to grow.

¹(2130.) SEC. 2. It shall be the duty of the overseer of highways in any township to see that the provisions of this act shall be carried out within their respective highway districts; and they shall give notice to the owner, possessor, or occupier of any land within said district, whereon Canada thistles shall be growing and in danger of going to seed, requiring him to cause the same to be cut down within five days from the service of such notice; and in case such owner, possessor, or occupier shall refuse or neglect to cut

Duties of overseers or commissioners of highways.

TAX LAW.

... the said Canada thistles, the overseer of highways shall enter ... and cause all such Canada thistles to be cut down, ... damage to growing crops as may be, and he shall not ... to be sued in any action of trespass therefor: *Provided*, ... such Canada thistles are growing upon non-resident ... shall not be necessary to give notice before proceeding to ... the same.

(2132.) SEC. 3. Each overseer of highways shall keep an accurate account of the expenses incurred by him in carrying out the provisions of the preceding section of this act, with respect to each parcel of land entered upon therefor, and shall offer a statement of each expense, describing, by its legal description, the land entered upon, and verified by oath, to the owner, possessor, or owner of such resident lands, requiring him to pay the amount, ... such owner, possessor, or occupier shall refuse or neglect to pay the same within thirty days after such application, said ... shall be presented to the township board of the township in which such expense was incurred, and said township board is hereby authorized and required to audit and allow such claim, and order the same to be paid from the fund for general township purposes of said township, out of any moneys in the township treasury not otherwise appropriated, the said overseer of highways shall ... present to the said township board a similar statement of the expenses incurred by him in carrying out the provisions of said section upon any non-resident land, and the said township board is hereby authorized and required to audit and allow the same in the same manner.

(2133.) SEC. 4. The supervisor of the township shall cause all such expenditures as have been so paid from the township treasury, under the provisions of this act, to be severally levied on the lands so described in the statement of the overseer of highways, and to be collected in the same manner as delinquent highway taxes are collected; and the same, when collected, shall be paid into the township treasury to reimburse the outlay therefrom aforesaid.

(2133.) SEC. 5. Any person who shall knowingly vend any grass or other seed among which there is any seed of the Canada thistle, shall, for every such offense, upon conviction, be liable to a fine of twenty dollars.

(2134.) SEC. 6. It shall be the duty of the prosecuting attorney of the county to prosecute all violations of the provisions of this act which shall come to his knowledge.

(2135.) SEC. 7. Every overseer of highways who shall refuse or neglect to discharge the duties imposed on him by the provisions of this act, shall be liable to a fine of twenty-five dollars: *Provided*, That the provisions of this act shall be published in pamphlet form and ten copies thereof forwarded to the supervisor of each township in this State.

¹As amended by Acts 65, 1873, and 181, 1874.

²As amended by Act 181, 1874.

SURVEY TAX.

[See Section 595, C. L. 1871.]

[Act No. 186, Laws of 1877.]

AN ACT to provide for a tax upon dogs, and to create a fund for the payment of certain damages for sheep killed or wounded by them in certain cases.

SECTION 1. *The People of the State of Michigan enact*, That Amount of tax upon dogs.
In all the townships and wards of the cities of this State, there shall be annually levied and collected the following tax upon dogs: Upon every male dog over six months old owned or kept by any one person or family, one dollar; upon every female dog owned or kept by one person or family, three dollars.

SEC. 2. The assessor of every township or ward, at the time of making his annual assessment, shall inquire and ascertain the number of dogs liable to be taxed, and shall enter in lists to be made by him the name of every person in his respective township or ward owning or keeping any dog subject to the above tax, the number kept by such person and the amount of tax to be paid by him. Assessor to ascertain number of dogs, and make list of owners.

SEC. 3. The assessor of every township and ward shall, on or before the fifteenth day of May in each year, make out a duplicate of the lists made by him as provided in the preceding section, and file the same with the township or city clerk of his respective township or city; said taxes as provided for in the preceding section of this act, shall be assessed to and collected from such persons as shall be liable for the same in the same manner as other township and city taxes are assessed and collected, and with like power to distrain and sell any property of the owner or owners, keeper or keepers of dogs liable to be taxed. Duplicate list to be deposited with clerk.

SEC. 4. The collector to whom such tax roll shall be delivered shall proceed and collect the sums of money therein specified in the same manner, and with like authority in all respects as in the collection of taxes imposed by the board of supervisors of the county, and shall, after deducting the commission allowed by this act, retain the remainder in the township or city treasury and subject to the orders of the township and city boards, as provided in sections five and six of this act. Assessment and collection of tax.

SEC. 5. Whenever any person shall sustain a loss by the killing or wounding of his sheep or lambs by a dog or dogs, he may call on a disinterested justice of the peace of his township or city not kin to such person, and not a member of the township board or city council, who shall proceed to view the sheep or lambs so killed or wounded, and if from such view he shall be satisfied that the same were killed or wounded by a dog or dogs, he shall make a certificate thereof in writing, stating the amount of damage sustained by such person, and shall deliver the same to the clerk of Justice of the peace to view sheep killed or wounded by dogs.

To make certificate of damage and deposit same with clerk.

TAX LAW.

justice of the peace, who shall file the same in his office and in the records of the township or city. The said justice shall receive for his services in each case the sum of two dollars, and for each mile actually and necessarily traveled by him in performing such service to be paid out of the aforesaid fund by the order of the township board or proper city officer or officers.

SEC. 6. At the annual meeting of the township board in each township, and at a meeting of the common council of each city in April in each year, the said board or council, as the case may be, shall examine the certificates of damage filed by the clerk as aforesaid, during the preceding year, and if satisfied that in any case or cases the certified damages are excessive, they may reduce the same to such amount as they may consider just, and may order the payment of all such loss as they may consider just out of the fund aforesaid, if it be sufficient for that purpose, and if not sufficient, they may order a proportionate payment of each claim. If any part remains of such fund after satisfactory payment of all claims aforesaid, it shall be apportioned among the several school districts of such township or city, in proportion to the number of children therein of school age: *Provided*, That no payment of loss shall be made as provided for in this section, unless the party applying for the same shall make it appear to the satisfaction of the township board or common council that he has made all due efforts and has not been able to obtain satisfaction therefor from the owner or owners of the dog or dogs which shall have done the damage.

SEC. 7. The collector shall be allowed to retain a commission of four per cent. upon all sums collected by them under the provisions of this act, and shall make and deliver a correct statement and account for the amount of money so collected to the township board of their respective townships, and to the city treasurer of cities at the time of making their annual settlement with said board, and treasurers, and shall be holden on their bonds the same as for other moneys collected if not paid over.

SEC. 8. Any township or city officers who shall willfully neglect or refuse to perform any of the duties imposed upon him by this act, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine not less than (\$50) fifty dollars or more than (\$100) one hundred dollars for each offense.

SEC. 9. Every person in possession of any dog, or who shall suffer any dog to remain about his house for the space of (15) fifteen days previous to the assessment of a tax or previous to any injury, chasing, worrying, or killing of sheep, shall be deemed the owner of such dog for all purposes of this act.

Approved May 23, 1877.

[Act No. 268, Laws of 1879.]

AN ACT to provide for the taxation of the business of manufacturing and selling spirituous and intoxicating, malt, brewed, or fermented liquors, and to repeal act number two hundred and twenty-eight of the session laws of eighteen hundred and seventy-five, approved May three, eighteen hundred and seventy-five, as amended by act one hundred and ninety-seven of the session laws of eighteen hundred and seventy-seven, approved May twenty-three, eighteen hundred and seventy-seven.

SECTION 1. *The People of the State of Michigan enact*, That Tax on sale and manufacture of liquor provided for.
in all townships, cities, and villages of this state, there shall be paid annually the following tax upon the business of manufacturing, selling, or keeping for sale, by all persons whose business, in whole or in part, consists in selling or keeping for sale, or manufacturing distilled or malt liquors, or mixed liquors, as follows: Amount of tax.
Upon the business of selling or offering for sale, spirituous or intoxicating liquors, or mixed liquors, by retail, or any mixture or compound excepting proprietary patent medicines which, in whole or in part, consists of spirituous or intoxicating liquors, the sum of two hundred dollars per annum; upon the business of selling or offering for sale by retail, any malt, brewed, or fermented liquors, sixty-five dollars per annum; upon the business of selling brewed or malt liquors at wholesale, or at wholesale and retail, one hundred and thirty dollars per annum; upon the business of selling spirituous or intoxicating liquors at wholesale, or at wholesale and retail, four hundred dollars per annum; upon the business of manufacturing brewed or malt liquors for sale, if the quantity manufactured be less than fifteen hundred barrels, sixty-five dollars per annum, and twenty-five dollars upon each additional thousand barrels, or part thereof; upon the business of manufacturing for sale spirituous or intoxicating liquors, four hundred dollars per annum. No person paying a tax on spirituous or intoxicating liquors, under this act, shall be liable to pay any tax on the sale of malt, brewed, or fermented liquors. No person paying a manufacturer's tax on brewed or malt liquors, under this act, shall be liable to pay a wholesale dealer's tax on the same.

SEC. 2. Retail dealers of spirituous or intoxicating liquors, and brewed, malt, and fermented liquors, shall be held and deemed to include all persons who sell by the drink, and in quantities of five gallons or less, or one dozen quart bottles or less, at any one time, to any person or persons. Wholesale dealers shall be held and deemed to mean and include all persons who sell or offer for sale such liquors and beverages in quantities of more than five gallons, or more than one dozen quart bottles, at any one time, to any person or persons. No tax imposed under this act shall be required from any person for selling any wine or cider made from fruits grown or gathered in this State, unless such wine or cider be sold by the drink as other beverages are. The keeping or storing of spirituous liquors by a person or persons who has paid a tax on the business of selling or keeping for sale, malt, brewed, or fermented Who deemed retail dealers.
Wholesale dealers.
Wine and cider not retailed exempt.
Storing of spirituous liquors by certain persons evidence of selling.

liquors only, on the premises where such business of selling or keeping for sale, malt, brewed, or fermented liquors is carried on, shall be deemed and held to be *prima facie* evidence of the keeping the said spirituous liquors for sale within the meaning of this act. The provisions of this act shall not apply to druggists who sell liquors for chemical, scientific, medical [medicinal], mechanical, or sacramental purposes only, and in strict compliance with law: *Provided*, That such druggists shall, on or before the first Monday in May in each year, or before commencing business, execute and file with the county treasurer a bond to the people of the state of Michigan, in the penal sum of three hundred dollars, with two good and sufficient sureties, to be approved by the said treasurer, or the township board of the township, or the board of trustees, or the common council of the village or city in which such druggists carry on their business, which shall be substantially as follows:

Act not to apply to certain druggists.

Provided.

Bond of druggist.

Know all men by these presents, that we, _____, as principal, and _____ and _____ as sureties are held and firmly bound unto the people of the state of Michigan in the sum of three hundred dollars, to the payment whereof, well and truly to be made, we bind ourselves, our heirs, executors, and administrators, jointly and severally, firmly by these presents.

Sealed with our seals, and dated this _____ day of _____, 18..
WHEREAS, The aforesaid named principal (or principals) professes to carry on the business of a druggist at _____, in the county of _____, state of Michigan.

AND WHEREAS, The said principal hath covenanted and agreed as follows, to wit: That he will not directly or indirectly, by himself, his agent, clerks or servant at any time, sell, furnish, give or deliver any spirituous or intoxicating liquors, or any wine, beer or malt liquors, or any mixture or compound, or any mixed liquors a part of which is spirituous or intoxicating, to any person except for medicinal, mechanical, chemical, scientific or sacramental purposes during the year ending on the first Monday of May following the giving of this bond.

Now therefore, the condition of this obligation is such that if the said _____ shall not sell, furnish, give or deliver any spirituous or intoxicating liquor, or any wine, beer or malt liquor, or any mixture or compound, or any mixed liquor, a part of which is spirituous or intoxicating to any person except for medicinal, mechanical, chemical, scientific or sacramental purposes, then this obligation shall be void, otherwise of full force and virtue, and the full sum of three hundred dollars shall be collected and paid thereon.

Witnesses, _____ [L. S.]
_____ [L. S.]
_____ [L. S.]

I approve of _____ and _____ as sureties in the foregoing bond.

County Treasurer.

And the prosecuting attorney of any county in this state, is required whenever he believes that the conditions of any such bond in his county has been violated, to bring a suit upon such bond, in a court of competent jurisdiction, and it shall be his duty when complaint on oath is made to him, that the condition of such bond has been violated, giving the time and place of such violation, and the circumstances attending the same, to prosecute said bond. And said penalty, when collected, shall be placed to the credit of the fund designated in section eight of this act.

Prosecuting attorney to bring suit for violation of bond.

SEC. 3. Every person engaged in or intending to engage in any business named in section one of this act, and requiring the payment of any tax mentioned in said section one, shall on or before the first Monday in May in each year, make and file with the county treasurer, in the county where it is proposed to carry on such business, a statement in writing and on oath, showing the name and residence of such person, the ward, village, or township in which it is proposed to carry on such sale, or manufacture, and the nature of the business which such person is engaged in, or is intending to engage in; and shall on or before the first Monday in May in each year, pay to the said county treasurer, in advance, the taxes required by said section one for such business, for the year commencing on said first Monday of May, and ending on the first Monday of May next thereafter.

Statement on oath to be filed by persons selling liquor.

When tax to be paid.

SEC. 4. Any person engaged in any such business, after the first Monday in May in each year shall, before commencing such business, make and file the like statement on oath, as is provided for in section three of this act, and pay in advance to said county treasurer a *pro rata* portion of the yearly tax on such business, as provided in said section one, for the remainder of the year ending on the first Monday of May next ensuing; and in computing the time of such fractional part of a year for which a tax is demanded, the tax shall commence on the first Monday of that month in which said business shall commence. But no tax shall be less than one-fourth part of the yearly tax.

Tax for fractional part of year.

SEC. 5. On receiving the tax provided for in this act, the county treasurer shall give a receipt for the money so paid, to the person or persons of whom the same shall be received, in which receipt the name of the person or persons paying the tax shall be named, the amount of the tax, and the time for which it was paid, the city, village, or township in which the business is to be conducted, and the kind of business for or on account of which the tax was paid; and also a notice printed on full size printer's card board, and in as large letters as practicable, which notice shall contain a statement of what tax has been paid by the holder of said notice and the penalty for selling liquors of a class different from that for which the tax has been paid, and that ten dollars costs will be paid to the person making complaint upon the conviction of the offender, and that complaint may be made to any justice of the peace or police justice, and before commencing or doing any business for the time for which such tax is paid, and the receipt is given, the same shall be posted up, and at all times displayed in a conspicu-

Receipt for tax.

Notice to be displayed.

Penalty for selling liquor without displaying notice.

Auditor General to prepare printed blanks.

Penalty for selling liquor without complying with provisions of act.

Each day's violation of act deemed new violation.

Business not to be enlarged or extended.

ous place in the room or place where the sale of the liquors or beverages named in this act, and for which the tax was paid, is carried on, so that such receipt and notice shall be displayed in a conspicuous manner to all persons visiting or frequenting such room or place; and any person or persons who shall carry on any business or sell any liquors or beverages, for which a tax is required to be paid by this act, without having such receipt and notice posted up and displayed at all times in the place where such business or sale is or are carried on, shall be deemed guilty of a misdemeanor, and shall be subject to the same fine and punishment as is provided in this act for the neglect or refusal to pay the tax required by this act. And it shall be the duty of the Auditor General to prepare printed blank receipts and notices conforming to the provisions of this act, and to furnish the same in proper quantities to the several county treasurers of the State. And no county treasurer shall issue any such receipt or notice until the tax specified herein shall be paid in full.

SEC. 6. If any person or persons shall engage or be engaged in any business requiring the payment of a tax, under section one of this act, without having paid in full the tax required by this act, and without having the receipt and notice for such tax posted up as required by this act, or shall in any manner violate any of the provisions of this act, such person or persons shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not less than fifty dollars nor more than one hundred dollars, and by imprisonment in the county jail not less than ten nor more than ninety days, in the discretion of the court. And for each and every day in which any person or persons shall be engaged in any such business without payment of the tax herein required, and without posting of the receipt and notice as herein provided, he shall be deemed guilty of a new, separate and distinct violation of this act, and shall be punished therefor as above provided. And any person or persons who shall have paid a tax under the provisions of this act, and who shall thereafter extend or enlarge his [said] business, or do any act or thing contrary to the provisions of this act, or do anything requiring the payment of a larger tax, without having paid to the county treasurer such enlarged tax and posting the receipt and notice as required by this act, shall be deemed guilty of a misdemeanor, and, on conviction thereof, be punished as herein provided. Any person or persons who have paid the tax provided herein upon the business of selling or keeping for sale, malt, brewed or fermented liquors, and have not paid the tax provided herein, upon the business of selling or keeping for sale spirituous or intoxicating liquors, who shall sell or keep for sale any spirituous or intoxicating liquors, or mixed liquors, or any mixture or compound which in whole or in part consists of spirituous or intoxicating liquors, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined ninety dollars or imprisonment in the county jail for the period of three months, or both such fine and imprisonment, in the discretion of the court; and ten dollars costs shall be adjudged in addition to

the other costs; and upon the collection of the fine and costs provided herein, the ten dollars costs shall be paid to the person making the complaint.

SEC. 7. It shall be the duty of the supervisors or other officers whose duty it is to make assessments in townships, wards, villages, or cities, to report in writing to the county treasurer, within the first five days of each and every month, the names and residence of every person within his township, ward, village or city, violating this act. And such supervisor or other assessing officer shall receive for such services, the sum of two dollars per day while actually and necessarily employed in such business, and mileage at the rate of ten cents per mile for the distance actually and necessarily traveled in going to notify such county treasurer, which fees shall be paid by the township, village or city for which said services were rendered.

Supervisors to report in writing to county treasurer violation of act.

Fees of supervisors, etc.

SEC. 8. All moneys paid to any county treasurer under the provisions of this act, after deducting his fees as herein provided, shall be by him placed to the credit of the contingent fund of the township, village or city from which the same was collected, and shall be by such county treasurer paid over, on demand, to the treasurer of such township, village or city, and the said moneys so paid shall be by such township, village or city, applied as other contingent funds. The county treasurer shall receive and retain one-half of one per cent on all moneys paid to him, as a recompense in full for all his services rendered under the provisions of this act.

Money to be placed to contingent fund and paid on demand to treasurer of township, village, etc.

SEC. 9. It shall be the duty of every county treasurer, sheriff, deputy sheriff, police officer or other person having notice or knowledge of any violation of the provisions of this act, to immediately notify the prosecuting attorney of the county thereof, and it shall be the duty of such prosecuting attorney forthwith to prosecute every person violating any of the provisions of this act, and for each and every violation thereof.

Notice to prosecuting attorney of violation of act.

SEC. 10. It shall be the duty of each and every county treasurer, at the end of each and every month, to make a full and complete report, under oath, containing the names of each and every person or persons in his county paying a tax during said month, under the provisions of this act, stating therein the residence of such person or persons, the nature of the business in which such persons are engaged, the place of doing business, the amount of tax paid and the date of payment of the same, and file such statement with the clerk of his county; and such county treasurer shall also, on or before the first day of December, in each year, make a full and complete report of all the facts, as shown by said reports, and return the same to the auditor general, and publish the same in some newspaper published in his county, if there be one, and in two if there be two. All blanks required to carry into effect the provisions of this act shall be prepared and furnished by the auditor general to the county treasurers, and by them to the township, village and city officers.

Monthly report to be made by county treasurer.

Where filed.

Annual report to Auditor General.

Publication of report.

Auditor General to furnish blanks.

SEC. 11. In case any assessor, county treasurer, prosecuting

Penalty for wilful neglect by officer to perform duty.

attorney or other officer whose duty it is to see that the provisions of this act are faithfully enforced, shall wilfully neglect or refuse to perform his duty under the provisions of this act, he shall be liable to a penalty of one hundred dollars for each and every offense, and the governor may, in case of such neglect or refusal, appoint some other person or persons to perform the duties prescribed by this act, who shall, upon being so appointed, have like powers and duties, and receive the same fees, under this act, as such assessor, treasurer, prosecuting attorney or other officer, as the case may be; and in case of the appointment of any person in place of the prosecuting attorney, to prosecute for violation of this act, in any county, the board of supervisors shall allow and pay to such prosecutor a reasonable compensation for all services performed by him as such prosecutor.

Acts repealed.

SEC. 12. Act number two hundred and twenty-eight of the session laws of eighteen hundred and seventy-five, approved May third, eighteen hundred and seventy-five, and act number one hundred and ninety-seven of the session laws of eighteen hundred and seventy-seven, approved May twenty-third, eighteen hundred and seventy-seven, are hereby repealed.

Approved May 31, 1879.

[Act No. 226, Laws of 1875.]

AN ACT to impose a tax on the business of selling spirituous and intoxicating, malt, brewed, and fermented liquors in the State of Michigan, to be shipped from without this State.

Tax upon non-residents for selling liquor at wholesale.

SECTION 1. *The People of the State of Michigan enact*, That every person who shall come into, or being in this State shall engage in the business of selling spirituous and intoxicating, malt, brewed, or fermented liquors to citizens or residents of this State, at wholesale, or of soliciting or taking orders from citizens or residents of this State for any such liquors, to be shipped into this State, or furnished, or supplied at wholesale, to any person within this State, by a person, co-partnership, association, or corporation, not resident in this State, nor having his, their, or its principal place of business within this State, shall, on or before the fourth Friday of June in each year, pay a tax of three hundred dollars if engaged in selling or soliciting or taking orders for the sale of such spirituous and intoxicating liquors, and one hundred dollars for malt, brewed, or fermented liquors. Such tax shall be paid to the Auditor General, and be by him paid into the State treasury, to the credit of the general fund.

Payment of, to Auditor General.

Receipt for tax.

SEC. 2. Upon the payment of such tax the Auditor General shall issue to such person a receipt therefor, and in case of loss thereof, a duplicate when required by the person to whom the original receipt was issued. Every person making sales or soliciting or taking orders as in the first section of this act provided, shall exhibit such receipt to every person to whom he makes sale, or from whom he takes or solicits orders for such liquors, and shall exhibit such

Person making sales, etc., to exhibit receipt.

receipt to any supervisor, justice of the peace, sheriff, under or deputy sheriff, city or village marshal, chief of police, policeman, or constable when required to do so, during business hours.

SEC. 3. Any person liable to pay a tax under this act, who shall sell any liquors or solicit or take orders for liquors to be shipped, from without this State to any person within this State, furnished or supplied by a person, co-partnership, association, or corporation not resident in or having his, their, or its principal place of business within this State, without the tax herein provided for having been paid and having in his possession and exhibiting the receipt therefor, or a duplicate thereof; and any person residing or being in this State, who shall purchase liquors from a person, liable to pay a tax under this act, who has not paid such tax, or shall give an order for liquors to such person, liable to pay a tax under this act, which order is to be filed, and such liquors are to be shipped, from without this State to a person within this State, furnished or supplied by a person, co-partnership, association, or corporation, not resident in or having his, their, or its principal place of business within this State, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than twenty-five nor more than one hundred dollars, and in default of payment thereof shall be imprisoned not less than ten nor more than ninety days, or both such fine and imprisonment, in the discretion of the court.

Penalty for selling liquor by, and for purchasing of persons, etc., who have not paid tax.

SEC. 4. Selling at wholesale shall be deemed to mean and include all sales of such spirituous and intoxicating, malt, brewed, or fermented liquors, in quantities of five gallons or over, or one dozen quart bottles or more, or soliciting orders therefor at any one time of any person.

Selling at wholesale defined.

SEC. 5. This act shall take immediate effect.

Approved May 3, 1875.

EXEMPTION OF LANDS ENTERED WITH WARRANTS ISSUED FOR SERVICES IN THE WAR OF 1812.

[See page 41, Compiled Laws of 1871.]

* * * Bounty lands granted, or hereafter to be granted, for military services during the late war, shall, while they continue to be held by the patentees or their heirs, remain exempt from any tax laid by order or under the authority of the State, whether for State, county, township, or any other purpose, for the term of three years from and after the date of the patents respectively. *

[Section 1136, C. L. 1871, as amended by Act No. 82, 1875.]

AN ACT to provide for the return and settlement of tax sales of county treasurers.

SECTION 1. *The People of the State of Michigan enact, That it*

Annual settle-
ment.

shall be the duty of the county treasurers of the several counties in said State to return to the Auditor General of the State one of the books, and duplicate certificates connected with the sale of lands for taxes in their respective counties, and make a settlement of said sales with said Auditor General annually, on or before the first day of December following said sales, and if any county treasurer shall refuse or willfully neglect to return to the Auditor General of the State the books, and duplicate certificates as aforesaid, he shall be liable to a penalty of one hundred dollars for each and every offense.

[Act No. 23, page 19, Laws of 1861.]

AN ACT to extend the time for the collection and return of taxes in the unorganized territory in Manitou county.

Time extended.

SECTION 1. *The People of the State of Michigan enact*, That the time for the collection of taxes in the unorganized territory in Manitou county be extended to the first day of June, in the year one thousand eight hundred and sixty-one, and until the same date in each year thereafter, until said territory shall become organized; and the proper officer whose duty it is to collect the said taxes shall, by the first day of June in each year, make his returns as fully, and in like manner, to the county treasurer, as he should have done had he made his returns the first day of February.

Returns, when
made.

Unpaid taxes.

SEC. 2. A transcript of all unpaid taxes in said unorganized territory returned to the county treasurer of Manitou county, in pursuance of the foregoing provisions, shall be returned to the Auditor General as soon as practicable, and in like manner as now required by law, except the time of making said returns; and the Auditor General is hereby authorized to receive such returns so made, and such unpaid taxes shall be collected in the same manner, and with interest from the same time as other taxes for like years, and duly returned to the Auditor General for non-payment.

How collected.

Duty of officer.

SEC. 3. It shall be the duty of the officer whose duty it is to collect the taxes in the territory aforesaid, before he shall be entitled to the benefits of this act, to pay all money collected during the time he was heretofore allowed by law to collect the same, and to execute to the treasurer of said county a bond in a similar form, and with like condition and penalty as is required by law of county treasurers, with sufficient sureties, to be approved by such treasurer.

New bond.

SEC. 4. This act to take effect immediately.

Approved February 2, 1861.

[Act No. 131, Laws of 1875.]

AN ACT to provide for the safe keeping of public moneys.

"Public mon-
eys" defined.

SECTION 1. *The People of the State of Michigan enact*, That all moneys which shall come into the hands of any officer of the State, or of any officer of any county, or of any township, school

district, highway district, city or village, or of any other municipal or public corporation within this State, pursuant to any provision of law authorizing such officer to receive the same, shall be denominated public moneys within the meaning of this act.

SEC. 2. It shall be the duty of every officer charged with the receiving, keeping, or disbursing of public moneys to keep the same separate and apart from his own money, and he shall not commingle the same with his own money, nor with the money of any other person, firm, or corporation.

Public moneys to be kept separate from all other funds.

SEC. 3. No such officer shall, under any pretext, use nor allow to be used, any such moneys for any purpose other than in accordance with the provisions of law; nor shall he use the same for his own private use, nor loan the same to any person, firm, or corporation without legal authority so to do.

How used.

SEC. 4. In all cases where public moneys are authorized to be deposited in any bank, or to be loaned to any individual, firm, or corporation, for interest, the interest accruing upon such public moneys shall belong to and constitute a general fund of the State, county, or other public or municipal corporation, as the case may be.

Interest on public moneys to constitute a general fund.

SEC. 5. In no case shall any such officer, directly or indirectly, receive any pecuniary or valuable consideration as an inducement for the deposit of any public moneys with any particular bank, person, firm or corporation.

Officers not to receive consideration for deposit of money with particular bank, etc.

SEC. 6. The provisions of this act shall apply to all deputies of such officer or officers, and to all clerks, agents, and servants of such officer or officers.

Provisions of this act to apply to deputies, etc.

SEC. 7. Any person guilty of a violation of any of the provisions of this act, shall on conviction thereof, be punished by a fine not exceeding one thousand dollars, or imprisonment in the county jail not exceeding six months, or both such fine and imprisonment in the discretion of the court: *Provided*, That nothing in this act contained shall prevent a prosecution under the general statute for embezzlement in cases where the facts warrant a prosecution under such general statute.

Penalty for violating provisions of this act.

Proviso.

SEC. 8. Any officer who shall willfully or corruptly draw or issue any warrant, order, or certificate for the payment of money in excess of the amount authorized by law, or for a purpose not authorized by law, shall be deemed guilty of a misdemeanor, and may be punished as provided in the preceding section.

Penalty for illegal payment of money.

Approved April 27, 1875.

[Act No. 106, Laws of 1851, as amended in 1871—being Sections 298 to 306, C. L. 1871.]

AN ACT to provide for a State Board of Equalization.

(298.) SECTION 1. *The People of the State of Michigan enact*, That there shall be a State Board of Equalization, to consist of the Lieutenant Governor, Auditor General, Secretary of State, State Treasurer, and Commissioner of the Land Office, whose duty it shall be, in the year eighteen hundred and fifty-one, and every

Who to compose State Board of Equalization.

Their duty.

fifth year thereafter, to equalize the assessments on all taxable property in the State, except that paying specific taxes, as hereinafter provided.

When to meet at Capitol.

(299.) SEC. 2. It shall be the duty of the board to meet at the Capitol in the village of Lansing, on the third Monday of August; and the persons composing it shall organize by choosing one of their number chairman, and the deputy Auditor General, or one of the clerks in the office of the Auditor General, shall act as secretary, who shall keep a record of the proceedings, which shall be certified by said chairman and secretary, and filed in the office of the Auditor General.

Oath of office.

(300.) SEC. 3. The several persons constituting the board, as herein provided, before entering upon the duties of their office, shall each take and subscribe the constitutional oath of office, before some person authorized to administer oaths; which oaths shall be filed and preserved with the proceedings of the board.

Board to examine tabular statements of boards of supervisors.

(301.) SEC. 4. After said board shall have been organized, they shall proceed to examine the tabular statements of the board of supervisors of each county, provided for in the eighth section of this act, and to hear the representatives from the several boards of supervisors as hereinafter provided; and they shall determine whether the relative valuation between the several counties is equal and uniform, according to location, soil, improvements, production, and manufactories; and also whether the personal estate of the several counties has been uniformly estimated, according to the best information which can be derived from the statistics of the State, or from any other source. If, after such examination, such assessment shall be determined relatively unequal, they shall equalize the same, by adding to or deducting from the aggregate valuation of taxable real and personal estate in such county or counties such percentage as will produce relative, equal, and uniform valuations between the several counties in the State; and the percentage added to or deducted from the valuations in each county, shall be entered upon their records; and the valuations of the several counties, as equalized, shall be certified and signed by the chairman and secretary of the board, and filed in the office of the Auditor General, and shall be the basis for apportioning all State taxes until another equalization shall be made.

Assessments relatively unequal, how equalized.

Duty of Auditor General and county treasurer.

(302.) SEC. 5. It shall be the duty of the Auditor General, as soon as may be after the determination of the State Board of Equalization shall be filed in his office, as provided in the preceding section, to send a certified transcript of the same to the treasurer of each county, who shall cause the same to be published in one or more papers in the county.

Board of supervisors to equalize assessments.

(303.) SEC. 6. A meeting of the Board of Supervisors for the year eighteen hundred and fifty-one shall be held on the second Monday of June, and on the second Monday of June every fifth year thereafter; and when convened, the board shall proceed to equalize the assessment rolls in the same manner as is provided in chapter twenty of the revised statutes of eighteen hundred and forty-six; and each of said supervisors shall add up the columns of

their respective rolls, enumerating the number of acres of land, and the value of the real estate and personal property, so assessed, so as to show the aggregate of each.

(304.) SEC. 7. The Board of Equalizers shall hear any evidence which may be laid before them by any person appointed by any board of supervisors, and any representation made by such person in behalf of any county. Board may hear evidence.

(305.) SEC. 8. It shall be the duty of the clerk of each board of supervisors to make out a tabular statement, from the aggregate of the several assessment rolls, of the number of acres of land, and the value of the real estate and personal property, in each township and ward, as assessed, and also the aggregate valuation of the real estate of each roll as equalized, and make a certified copy thereof, signed by the chairman and clerk, and transmit the same to the Auditor General on or before the second Monday of July following, who shall lay the same before the State Board of Equalization, when organized: *Provided*, That such statement and copy shall not embrace any property paying specific taxes. Clerk of board of supervisors to make out tabular statement for Auditor General.

Proviso.

(306.) SEC. 9.. Any three members of the board shall constitute a quorum for the transaction of business. The Lieutenant Governor shall receive three dollars a day for actual attendance, and ten cents a mile for travel in going to and returning from the seat of government, the usual traveled route, to be paid out of the treasury, on the warrant of the Auditor General. Three to constitute quorum.
Compensation of Lieutenant Governor.

SEC. 10. This act shall take effect immediately.

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SEC. 10. This act shall take effect immediately.



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